

# The Sustainable Working Waterfronts Toolkit

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## *State Funding for Ports: Selected State Summaries and Links to Resources*

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# **STATE FUNDING FOR PORTS: SELECTED STATE SUMMARIES AND LINKS TO RESOURCES**

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## ABSTRACT

*The maritime industry in the United States, which plays a significant role in the economies of coastal states and the nation as a whole,<sup>1</sup> involves a diverse variety of working waterfronts, ranging from large commercial ports that facilitate heavy industry to small-scale, traditional working waterfronts.<sup>2</sup> Moreover, in many areas of the country, the economic and cultural identities of local communities depend almost exclusively on traditional working waterfronts. Unfortunately, land use and economic policy shocks, such as escalating coastal property values and taxes, increasing demands for non-water-dependent land uses, and complex and time-consuming permitting processes, currently threaten many working waterfronts. Since waterfront land is essentially a non-renewable resource, these pressures are likely to intensify, with more than half the U.S. population (153 million people) living in coastal zones.<sup>3</sup> Additionally, the number of people 65 years and older living in coastal zones is expected to increase by 147% over the next 50 years (these people come to the coast for reasons other than economic reasons).<sup>4</sup>*

*Further compounding this pressure, waterfront infrastructure almost always amounts to a long-term capital investment, which demands stable planning and funding mechanisms. Thus, where state policies fail to make the appropriate financial resources available to waterfront communities, these communities face an uphill battle to remain viable – essentially playing third-fiddle to other ports in the state, ports in other states, and non-water-dependent land uses, such as luxury residential projects.*

*Some state-authorized port governance structures and some state funding programs for ports confer distinct economic advantages on sometimes narrowly defined ports in terms of preferential access to limited public resources for port related activities like harbor maintenance, port development, and port operation. As states approach port governance and funding in a variety of different ways, the scope of state ports laws may or may not incorporate all types of working waterfronts. This may or may not extend certain economic opportunities to the full range of working waterfronts. Moreover, some states fail to adequately make these economic opportunities available to any type of working waterfront by failing to either allocate state funds to ports pursuant to a dedicated state program, or to empower local port entities with the authority necessary to raise adequate funds. Working waterfronts in these states must rely exclusively on private investment and other funding sources like operational revenues, federal sources, and local nontax sources. Where states do provide mechanisms for funding working waterfronts, the funding can come as the result of legislation that authorizes or creates local port*

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<sup>1</sup> Activities and resources in the coastal zone of the United States have been found to contribute upwards of six trillion dollars to the U.S. economy in a year, <http://coastalmanagement.noaa.gov/programs/czm.html>.

<sup>2</sup> Although no one definition exists, a traditional working waterfront can be characterized as a waterfront area supporting small-scale commercial and recreational boating, and may not include heavy industrial activity.

<sup>3</sup> *Access to the Waterfront: Issues and Solutions Across the Nation*, Maine Sea Grant, <http://www.seagrant.umaine.edu/files/pdf-global/07access.pdf>.

<sup>4</sup> *Access to the Waterfront: Issues and Solutions Across the Nation*, Maine Sea Grant, <http://www.seagrant.umaine.edu/files/pdf-global/07access.pdf>.

*authorities with broad fundraising powers,<sup>5</sup> establishes dedicated funding sources for ports,<sup>6</sup> or provides one-time funding appropriations to ports.*

*As it relates to port governance structures, a handful of states have enacted legislation that establishes, or authorizes the establishment of, local port authorities and extends broad powers to these authorities. Where states directly establish particular port authorities, they do so by special act. Some might indirectly authorize the establishment of local port authorities through general laws that stipulate a procedure. Certain local governments may follow in order to form port authorities or grant home-rule to local governments through constitutional or legislative provisions. Powers conferred to port authorities may include the power to charge fees, exercise eminent domain, levy taxes, and/or issue bonds. However, these powers are not extended in all cases, even in the states with port authorities.<sup>7</sup> Washington State (with the largest locally operated ports system in the world<sup>8</sup>) and Oregon provide good examples of states where favorable legislation has resulted in robust ports systems. Legislation authorizing the establishment and operation of ports in these states is relatively free of restriction and confers a full suite of powers to port authorities once established, including the power to levy taxes. In the case where states allow the creation of local port authorities, but fail to confer taxing powers to port authorities, port systems have generally failed to realize the same success.<sup>9</sup>*

*For context, it is important to recognize that activities along the coast of the United States are regulated and funded pursuant to a wide variety of federal, state, and local policies and sources. Some notable examples of federal law regulating and/or funding such activities include: the Coastal Zone Management Act (CZMA), National Environmental Policy Act (NEPA), Clean Water Act (CWA), Deepwater Port Act (DWPA), and The Shipping Act. Moreover, most federal programs that provide port funding do not draw from a dedicated funding source, but rather, must compete for appropriations from the general fund. This section does not discuss federal regulation or funding sources, but provides a non-exhaustive report on various ways that states provide funding opportunities for waterfront development, maintenance, and operation activities.*

*Summaries and links related to select state funding mechanisms are provided below.*

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<sup>5</sup> E.g., Washington and Oregon.

<sup>6</sup> E.g., Maryland and Virginia – where dedicated funding is appropriated from the states’ transportation funds; *Also see*, e.g., Wisconsin – offering grants through the Wisconsin Harbor Assistance Program.

<sup>7</sup> E.g., Connecticut allows port districts to charge fees and issue bonds for capital improvements, but does not allow port districts to levy taxes.

<sup>8</sup> Currently, 75 local ports districts exist in the State of Washington.

<sup>9</sup> E.g., Connecticut.

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## I. State Summaries & Resources

### A. ALABAMA

Although Alabama maintains ownership of the public ports in the state, the Alabama Legislature established the Alabama State Port Authority to, among other port-related activities, develop and operate Alabama's public ports. Alabama's ports include the Port of Mobile, its only major port, and a variety of shallow draft ports. Except for certain one-time funding allocations and tax revenues available to the Alabama State Port Authority when it is faced with shortfalls in operating expenses or debt services, the Authority receives no funding or grants from the state. Alabama's code grants bonding power to the Authority, but no taxing power. The jurisdiction of the Alabama State Port Authority is not exclusive, and the Alabama Legislature has also conveyed authority to counties and municipalities to establish local port authorities. Like the Alabama State Port Authority, these local port authorities may issue bonds, but may not impose taxes. Moreover, an Inland Waterways and Intermodal Infrastructure Fund does exist for the purpose of providing state funds to ports for certain projects. However, the Legislature has yet to allocate any monies for this Fund.

- [State Code of Alabama](#)<sup>10</sup>
  - **Title 11, Chapter 94 – Port Authorities**
  - **Title 33 – Navigation and Watercourses:**
    - Alabama Code § 33-1-1 (authorizing the promotion, development, construction, operation, etc. of ports by the State)
    - Alabama Code § 33-1-2 (establishing the Alabama State Port Authority)
    - Alabama Code §§ 33-1-12 & 33-1-12.1; (prescribing the powers of the Alabama State Port Authority)
    - Alabama Code §§ 33-2-1 – 33-2-213 (regulating the development of docks and other facilities along inland waterways)
    - Alabama Code §§ 33-2-210 – 33-2-213 (allowing for distribution of Oil and Gas Tax funds to the Alabama State Port Authority in the case of insufficient funds to pay operating expenses or debt services)
    - Alabama Code §§ 33-13-1 – 33-13-13 (authorizing and regulating the issuance of bonds by the Alabama State Port Authority)
  - **Title 40, Chapter 13 – Minerals Severance Taxes:**
    - Alabama Code § 40-13-6 (allowing for distribution of Coal Severance Tax funds to the Alabama State Port Authority in the case of insufficient funds for operating expenses or debt services)

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<sup>10</sup> Links to the Alabama Legislative Information System Online (upon accessing the system, navigate to the particular statutory section sought by clicking on the *Code of Ala* tab on the left side of the screen and subsequently clicking on the link labeled "View" on the sidebar. From the webpage that appears after clicking on "View," you can navigate through the different titles of the code).



- **Title 41, Chapter 23 – Department of Economic and Community Affairs:**
- Alabama Code § 41-23-123 (establishing and regulating the Inland Waterways and Intermodal Infrastructure Fund)
- **Alabama State Port Authority**

## **B. ALASKA**

Alaska’s Municipal Port Authority Act allows municipalities to create port authorities to operate ports. Although this Act gives port authorities the power to raise funds by issuing bonds, they may not levy taxes. Other than requiring voter approval, the Act imposes relatively few restrictions on the establishment of municipal port authorities. Also, a handful of relevant state funding sources exist in Alaska. Notably, competitive grants from Alaska’s Municipal Harbor Facility Grant Fund are available to small boat facilities owned by a municipality or regional housing authority. These grants are not available to port or barge facilities. Alaska also generates revenue from two somewhat unique taxes – a Fisheries Business Tax and a “Cruise Ship Passenger Tax.” Some of the revenue from the Fisheries Business Tax is refunded to the particular municipalities in which it was collected; however, other revenue from the tax may go to municipalities demonstrating significant effects from business activities related to fisheries and to the Municipal Harbor Facility Grant Fund. As for the “Cruise Ship Passenger Tax,” the legislature may distribute the proceeds from this tax either to particular ports of call or for projects that, among other effects, improve port and harbor infrastructure.

- **Alaska Statutes §§ 29.35.600 – 29.35.730** (codification of the Municipal Port Authority Act)
- **Alaska Statutes §§ 29.60.800 - 29.06.830** (establishing and regulating the Municipal Harbor Facility Grant Fund)
- **Alaska Statutes §§ 29.60.450 & 43.75.130** (providing for the Fisheries Business Tax refunds and allocations)
- **Alaska Statutes §§ 43.52.200- 43.52.295** (providing for the levy of a “Cruise Ship Passenger Tax,” and prescribing the disposition of the proceeds from the tax)

## **C. CALIFORNIA**

Eleven public ports dot the coast and waterways of California. These ports are operated either as independent special districts, or as municipal departments under California’s Harbors and Navigation Code. This code authorizes the establishment of various ports and harbor entities by local governments and confers relatively broad powers to these entities, including bonding and taxing powers. The state also provides a variety of funding opportunities for port and harbor facilities. For example, the Harbors and Watercraft Revolving Fund makes funds available for, among other purposes, small craft harbor and boating facilities. These funds come from a fuel tax and other fees imposed on recreational boaters. Moreover, through the California Coastal Conservancy, grants pursuant to the Urban Waterfront Restoration Program are available for

public agencies and nonprofit organizations. This program allows the California Coastal Conservancy to extend grants for the purpose of restoring urban coastal waterfront areas.

Two public banking mechanisms in California also make financing available to ports. With an exclusive focus on ports and harbors, the California Maritime Infrastructure Bank provides favorable loans to public entities and certain private entities. This Bank also created the California Maritime Infrastructure Authority (a public agency under California Law), which is a joint exercise of authority that may issue debt, establish and administer infrastructure funds, receive and administer public and private grants, expend tax revenues and conduct other activities on behalf of its members.<sup>11</sup> Furthermore, through the California Infrastructure and Economic Development Bank, or “I-Bank,” an Infrastructure State Revolving Fund Program provides favorable loans to certain local government entities for eligible public infrastructure projects. This program is within the California Business, Transportation and Housing Agency, and port facilities are included among the categories of projects eligible for financing under the program.

- [California Harbors and Navigation Code](#)<sup>12</sup> (authorizing and regulating port and harbor districts)
  - § 5800 et seq. (Harbor Improvement Districts)
  - § 6000 et seq. (Harbor Districts)
  - § 6200 et seq. (Port Districts)
  - § 7000 et seq. (Small Craft Harbor Districts)
- [California Harbors and Navigation Code, §§ 85- 88](#) (establishing and prescribing the allocation of the Harbors and Watercraft Revolving Fund)
- [Department of Boating and Waterways](#) (administers the Harbors and Watercraft Fund)
- [California Public Resources Code, §§ 31300 – 31316](#) (codification of the Urban Waterfront Restoration Act of 1981)
- [California Coastal Conservancy](#) (a state agency created to supplement departments in California that regulate coastal activities, it administers the Urban Waterfront Restoration Act)
- [California Government Code](#)<sup>13</sup>
  - §§ 6516.5 & 6571 (*also see § 1690 et seq. of the Harbors and Navigation Code*) (codification of the California Maritime Infrastructure Bank)
  - §§ 63000-63087 (codification of the Infrastructure State Revolving Fund Program)

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<sup>11</sup> Members of the Authority must be public entities; current membership of the Authority consists of the Port of Humboldt Bay, Port of Sacramento, San Mateo County Harbor District, Santa Cruz Port District, County of Orange, and Port of San Diego.

<sup>12</sup> This link is to the Table of Contents for the Harbors and Navigation Code. Links to the particular sections of the Harbors and Navigation Code can be accessed from the Table of Contents.

<sup>13</sup> This link is to the Table of Contents for the Government Code. Links to the particular sections of the Government Code can be accessed from the Table of Contents.



- [California Business, Transportation and Housing Agency](#)
- [California Association of Port Authorities](#) (promotes the interests of California's ports)

#### **D. ILLINOIS**

Illinois Legislature has established a number of public port districts in the state. Although these port districts are all units of local government, the geographic scope of the respective districts varies in terms of how the port district boundaries correspond to the boundaries of other local governments. Thus, some port district boundaries exist entirely within the boundaries of a single county or municipality, while others span a multi-county region. The port authority boards that govern the port districts vary in size; depending on the enabling legislation of the particular port districts, they may issue bonds and/or levy taxes. The Illinois International Port District, overseeing one of the busiest cargo ports on the Great Lakes (the Port of Chicago), does not have the power to levy taxes. Regional Economic Development Authorities are also authorized in Illinois. These local government units are empowered to issue bonds in order to raise funds for financing port development projects.

For state-level funding, Illinois provides below market rate loans to port districts through its Port Development Revolving Loan Program. Depending on appropriation of funds by the legislature, the loans under this program are available on a competitive basis “in order to facilitate and enhance the utilization of Illinois' navigable waterways or the development of inland intermodal freight facilities, or both.” The Illinois Department of Commerce and Economic Opportunity administers the program, and loans provided through the program are only available for projects that are intermodal facilities and within the scope of powers and responsibilities granted to the respective port districts by their enabling legislation. In order to receive a loan under the program, projects must, as determined by the Department of Commerce and Economic Opportunity, have a positive cost/benefit ratio. Moreover, a port district must also demonstrate how it intends to support repayment of the loan, and the loans may not be used for working capital or administrative purposes. Although the legislation creating this program directs the Department of Commerce and Economic Opportunity to annually invite the port districts of the state to submit project applications, the program is not currently funded by the legislature.<sup>14</sup>

The State of Illinois also makes funds available for port improvement projects through its Business Development Public Infrastructure Program. This program provides low interest financing or grants to units of local government, including port districts, for the purpose of public improvements on behalf of businesses undertaking projects that will result in substantial private investment and/or the creation of a large number of jobs. As with the Port Development Revolving Loan Program, the Department of Commerce and Economic Opportunity administers this program.

- [70 Illinois Compiled Statutes §§ 1801/1 – 1870/38](#) (codification of legislation establishing the various port districts in Illinois)

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<sup>14</sup> See Illinois State Budget: Fiscal Year 2013, Chapter 2, Page 73

- [70 Illinois Compiled Statutes §§ 1810/1 – 1810/27](#) (enabling legislation for the Illinois International Port District)
- [Illinois International Port District](#) (operating the Port of Chicago)
- [70 Illinois Compiled Statutes §§ 519/5-5 – 5-75](#) (enabling legislation for the Southern Illinois Economic Development Authority – an example of a Regional Development Authority)
- [30 Illinois Compiled Statutes § 750/9-11](#) (establishing and regulating the Port Development Revolving Loan Program)
- [30 Illinois Compiled Statutes § 750/8-2 – 750/8-6](#) (establishing and regulating the Business Development Public Infrastructure Program)
- [Illinois Department of Commerce & Economic Opportunity](#)

## **E. MAINE**

Maine has three major cargo ports and several shallow draft ports. Two of the major cargo ports are owned by the state and operated by the Maine Ports Authority – a division of the Maine Department of Transportation. The remaining major port, the Port of Eastport, is owned by the City of Eastport. The Maine Port Authority is authorized to issue bonds; however, it does not employ the power to levy taxes. In general, port districts in Maine have been created by special act. Whether or not these districts may issue bonds or levy taxes depends on the special act creating the district.

Maine has a number of state programs that make funding available for waterfront projects and protection, such as the Boating Facility Grant Program, Rights of Way Re-discovery Program, Shore and Harbor Planning Grants Program, Small Harbor Improvement Program, and Working Waterfront Access Protection Program. The Boating Facilities Grant Program provides competitive grants from the Boating Facilities Fund – supported by deposits from the state gasoline tax – for the acquisition, development, and maintenance of public boating facilities. The Maine Department of Conservation, Bureau of Parks & Lands (specifically the Boating Facilities Division of the Bureau) administers this program. A wide variety of recipients are eligible for such grants, including local governments, state agencies, and certain private entities; eligible projects are restricted to facilities primarily used for recreational boating and open to the public. The selection process under this program is designed to direct funds to projects that have a significant impact on a community, region, or the state as a whole. In contrast to the Boating Facilities Grant Program’s restriction against facilities that are not recreational, the Small Harbor Improvement Program has no such restriction. This program, administered by the Maine Department of Transportation, makes grants available to municipalities improving or creating marine infrastructure, with the overall goal of promoting economic development, as well as improving marine infrastructure and public access.

Also offering financial assistance to waterfront communities, the Working Waterfront Access Protection Program provides funds through the Maine Department of Marine Resources<sup>15</sup> to assist in buying development rights for the purpose of protecting waterfront land uses that support commercial fisheries activities. Funds used for the program come from the Working Waterfront Access Protection Fund, and essentially enable the Department of Marine Resources to secure covenants from landowners that extinguish development rights incompatible with fisheries uses. In determining which projects to award funding under the program, the Department of Marine Resources considers statutorily required minimum criteria, such as the probability of conversion of the respective properties to a use not compatible with commercial fisheries, and the economic significance of such properties to commercial fisheries.

- [5 Maine Revised Statutes § 12004-F\(8\)](#) (establishing the Maine Port Authority)
- [Maine Revised Statutes, Title 23, Chapter 412, Subchapter 2](#) (regulating the Maine Port Authority)
- [Maine Revised Statutes, Title 23, § 4429](#) (establishing the Maine Port Terminal Facilities Marketing Program, which requires the Maine Port Authority to implement a marketing program to increase the use of the Eastport port terminal facility, and authorizing the Authority to disburse funds independently or in conjunction with state funds allocated for the purpose)
- [Maine Port Authority](#)
- [Private and Special Law 1977, chapter 14](#)<sup>16</sup> (establishing the Eastport Port Authority)
- [Eastport Port Authority](#)
- [12 Maine Revised Statutes §§ 1894 – 1899](#) (applicable to public boating facilities; creating the Boating Facilities Fund, authorizing disbursement of the Fund for boating facilities grants, and otherwise regulating the activities of the Bureau of Parks & Lands that relate to public boating facilities)
  - [36 Maine Revised Statutes §2903-D\(1\)](#) (providing for the distribution of a percentage of gasoline tax revenues to be distributed to the Commissioner of Marine Resources, designed to carry out certain activities benefitting commercial fisheries and sports fisheries and provide for a certain percentage of this tax to be distributed to the Boating Facilities Fund)
- [12 Maine Revised Statutes § 6042](#) (creating and providing regulations for the Working Waterfront Access Protection Program)
- [5 Maine Revised Statutes § 6203-B](#) (creating the Working Waterfront Access Protection Fund)
- [33 Maine Revised Statutes §§ 131 - 136](#) (authorizing the creation of, and otherwise regulating, working waterfront covenants)

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<sup>15</sup> In administering the Working Waterfront Access Protection Program, the Maine Department of Marine Resources works with the Land For Maine's Future Program and contracts with a private company – Coastal Enterprises, Inc. – for direct administration and implementation of the program.

<sup>16</sup> No link available.

## F. MARYLAND

Maryland's only public port, the Port of Baltimore, is owned by the State of Maryland and operated by the Maryland Port Administration – a modal unit of the Maryland Department of Transportation. The Maryland Port Commission, comprised of the Secretary of Transportation and six private sector appointees of the Governor, supervises the Maryland Port Administration. Funding for the Maryland Port Administration's operations and capital projects at the Port of Baltimore comes from Maryland's Transportation Trust Fund. The Port Administration contributes all of its operating revenues to the Transportation Trust Fund and, in turn, takes out its expenses. The Maryland Port Administration often achieves a net operating profit (contributing more to the Transportation Trust Fund than it takes), and thus, subsidization by the Trust Fund is often unnecessary.

Maryland also provides state grants and interest-free loans to various public entities, including local governments, for financing a wide range of projects and activities that improve and promote Maryland's waterways for the benefit of the general boating public. The Waterways Improvement Fund provides funding for these grants and loans. It receives almost all of its revenues from a five-percent vessel excise tax and is administered by the Maryland Department of Natural Resources. To raise funds for paying back loans granted from the fund, local governments may establish a Waterways Improvement District and impose a special assessment or tax against property owners in the district.

- [Maryland Code, Transportation §§ 6-101 – 6-602](#)<sup>17</sup> (statutory title under which the Maryland Port Administration operates)
- [Maryland Department of Transportation](#)
- [Maryland Port Administration](#)
- [Port of Baltimore](#)
- [Maryland Code, Natural Resources §§ 8-705 – 8-709](#)<sup>18</sup> (providing for a Waterways Improvement Fund, for the awarding of grants and loans from the fund, and for the establishment of Waterways Improvement Districts)
- [Maryland Code, Natural Resources §8-716\(c\)](#) (providing for a five-percent vessel excise tax)
- [Maryland Department of Natural Resources](#)

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<sup>17</sup> This link is to a page displaying the first section (§ 6-101) of the *Ports* Title in the *Transportation* Article of the Maryland Code. A link labeled “next” appears on both the top and bottom of the page. This link permits navigation to subsequent sections.

<sup>18</sup> This link is to a page displaying § 8-705 of the *Natural Resources* Article of the Maryland Code. A link labeled “next” appears on both the top and bottom of the page. This link permits navigation to subsequent sections.

## G. MASSACHUSETTS

Massachusetts boasts one major port, the Port of Boston, which is owned and operated by an independent public authority – Massachusetts Port Authority (Massport). Generally, Massport receives no state funds for operations or capital projects and has no authority to levy taxes. It supports itself largely from its own revenues and bonding authority. Massachusetts also has four “second-tier” cargo ports – Fall River, Gloucester, New Bedford, and Salem – and many other small commercial fishing ports. The Massachusetts Seaport Advisory Council, which was created by executive order in 1994, coordinates these remaining ports. In furtherance of its purpose of enhancing and developing the commercial deepwater ports of the state, the Seaport Advisory Council approves grants from funding originally provided by the Seaport Bill of 1996. The Council and the funding focus mostly on the second-tier cargo ports. Currently the funds come from a \$110 million line item in the Energy and Environmental Bond Bill of 2008.

Massachusetts has also created Designated Port Areas for the purposes of accommodating and protecting water-dependent industrial land uses. Such a designation results in certain regulatory implications for projects within the area. Essentially, projects within Designated Port Areas must not reduce the ability of the area to support maritime industry in the long-term. Also, cities and towns in Massachusetts may apply to the Secretary of Environmental Affairs for grants to improve harbors or waterfronts. These grants may not be for more than fifty percent of estimated total costs of the improvement, and they are also capped at \$1.5 million for areas outside a Designated Port Area and \$2 million for areas within a Designated Port Area.

- Chapter 465 of the Acts of 1956 (Massachusetts General Laws c. 91, App. ss. 1 to 1, et seq.)<sup>19</sup>
- [Massport](#)
- [Massachusetts Executive Order No. 376 \(Dec. 22, 1994\)](#) (creating the Massachusetts Seaport Advisory Council)
- [Massachusetts Seaport Advisory Council](#)
- [Seaport Bond Bill of 1996 \(Chapter 28\)](#) (providing the original funding for the Seaport Advisory Council)
- [Energy and Environmental Bond Bill of 2008](#) (providing funding for Seaport Advisory Council)
- [301 Code of Massachusetts Regulations 25.00](#) (establishing the 11 Designated Port Areas)
- [Massachusetts General Laws, Chapter 21F, § 4](#) (authorizing the Secretary of Environmental Affairs to give grants to coastal towns and cities for harbor or waterfront improvement or to develop harbor plans)

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<sup>19</sup> Massport’s enabling statute is in an appendix to Chapter 91 of Title XIV. However, this appendix is not included in the online version of the Massachusetts General Laws. Chapter 91 of Title XIV in Part I of the Massachusetts General Laws can be accessed here: <http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleXIV/Chapter91>.

## H. MINNESOTA

Minnesota's Legislature has established or authorized the establishment of a variety of public port authorities as local political subdivisions. Generally,<sup>20</sup> port authorities may issue bonds but, except for seaway port authorities, may not directly impose taxes. However, cities in which a port authority is located must, upon request by the port authority, levy taxes for the operation of the port authority. A seaway port authority may directly impose taxes. Port authorities are eligible for a handful of state funding programs in Minnesota. These programs include the Port Development Assistance Program and the Contamination Cleanup and Investigation Program. The Ports & Waterway section of the Minnesota Department of Transportation administers the Port Development Assistance Program, which gives authority to the Minnesota Department of Transportation to provide grants and loans to publically owned port facilities. The funds for this program come from a revolving fund, which is supported by funds appropriated by the legislature or by loan repayments.

The Contamination Cleanup and Investigation Grant Program also has a revolving fund available through the Minnesota Department of Employment and Economic Development. It provides grants to eligible recipients, including port authorities, in order to assist in the cleanup of contaminated sites (as defined under the Minnesota Superfund law or where resulting from petroleum contamination). Eligible recipients may also receive grants in order to investigate for contaminants. The purpose of the program is to provide various public benefits by aiding in the redevelopment of polluted and unproductive sites.

- [Minnesota Statutes §§ 469.048 – 469.068](#) (establishing and regulating port authorities in general)
- [Duluth Seaway Port Authority](#)
- [Minnesota Statutes §§ 469.069 – 469.089](#) (authorizing the establishment of, and providing additional regulations pertaining to, port districts in specific cities)
- [Minnesota Statutes §§ 457A.01 – 457A.06](#) (establishing and regulating the Port Development Assistance Program)
- [Minnesota Statutes §§ 116J.551 – 116J.558](#) (establishing and regulating the Contamination Cleanup and Investigation Grant Program)
- [Minnesota Statutes § 116J.559](#) (creating the Contamination Cleanup Revolving Loan Program by authorizing loans from the same account as those granted pursuant to the Contamination and Investigation Grant Program)
- [Minnesota Department of Transportation](#)
- [Minnesota Department of Employment and Economic Development](#)

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<sup>20</sup> See the particular enabling statutes for a variety of prescriptions that might be applicable to specific ports.



## I. MISSISSIPPI

Mississippi houses several public ports, most of which are locally owned. Municipal and county port authorities or commissions, or independent local entities operate these locally owned ports. The State of Mississippi owns the ports of Yellow Creek and Gulfport, and it operates the Port of Gulfport as the Mississippi State Port Authority – an agency of the state. The Mississippi State Port Authority may issue bonds, but may not impose taxes. Moreover, depending on legislative authorization, the various local port and harbor entities may levy taxes and/or issue bonds.

Two noteworthy programs in Mississippi provide state funding for ports. These programs consist of the Port Revitalization Revolving Loan Program and the Mississippi Department of Transportation's Ports Multimodal Program. The Port Revitalization Revolving Loan Program, administered by the Mississippi Development Authority, provides loans to public port authorities on behalf of new or expanding businesses in order to improve port infrastructure and promote commerce and economic growth. A variety of projects are eligible for loans under this program, but loan funds may not be used for working capital or gambling vessels. The Ports Multimodal Program, which is part of the Multimodal Transportation Improvement Program and administered by the Mississippi Department of Transportation, makes funding available to publically owned ports for capital improvements or rehabilitation to basic infrastructure. Funds allocated under this program must be for a purpose outside the normal operating budget of the port. Although the Mississippi Legislature established the Multimodal Transportation Improvement Program, it has yet to appropriate any funds. To date, funding for the program has come from the Mississippi Department of Transportation.

- [Mississippi Code](#)<sup>21</sup>
  - **Various Sections in Title 59** (authorizing the formation of a variety of local port and harbor entities, as well as providing certain bonding and taxing powers)
  - **§ 59-5-21** (establishing the Mississippi State Port Authority)
  - **§ 57-61-41** (establishing and regulating the Port Revitalization Revolving Loan Program)
  - **§§ 65-1-701 – 65-1-711** (establishing and regulating the Multimodal Transportation Improvement Program)
- [Mississippi State Port Authority at Gulfport](#)
- [Mississippi Development Authority](#)
- [Mississippi Department of Transportation](#)

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<sup>21</sup> Terms and Conditions must be agreed to in order to use the LexisNexis publication of the Mississippi Code. Agree to the terms and conditions by clicking "I Agree." After clicking "I Agree," navigate to the desired section of the Code.

## J. OREGON

Oregon's 23 public ports are special local districts that enjoy broad powers. Except for the Port of Portland and the Oregon International Port of Coos Bay, boards of locally elected commissioners run the port districts. The boards of the Port of Portland and the Oregon International Port of Coos Bay are appointed by the Governor and confirmed by the Oregon Senate. Included among their broad powers, port districts may issue bonds and impose taxes. Several programs in Oregon make state funding available to port districts. These programs include *ConnectOregon*, which is administered by the Oregon Department of Transportation and provides grants and loans for various non-highway (aviation, marine, rail, or transit) transportation projects. Among the criteria that must be considered in determining which projects to allocate *ConnectOregon* funds, the Oregon Department of Transportation considers whether a project reduces transportation costs for Oregon businesses and whether the project is ready for construction. The legislature has allocated \$40 million to *ConnectOregon* for the 2011-2013 biennium – the fourth round of program funding.

Three other state programs in Oregon – The Port Revolving Fund, the Port Planning and Marketing Fund, and the Marine Navigation Improvement Fund – provide funding opportunities exclusively for public ports. The Oregon Business Development Department's Infrastructure Finance Authority administers these programs. The Infrastructure Finance Authority also administers a Special Public Works Fund, which provides funds to certain public agencies, including port districts.

Finally, the Oregon State Marine Board, Oregon's recreational boating agency, also manages two funding programs available to port districts. These programs – the Boating Facility Grant Program and the Maintenance Assistance Program – provide funding opportunities for recreational boating facilities.

- [\*\*Oregon Constitution\*\*](#)
  - **Article XI, § 9** (giving Oregon's legislature the authority to enact legislation authorizing port districts to raise and spend funds)
- [\*\*Oregon Revised Statutes, Chapter 777\*\*](#) (providing powers and regulations for applicable port districts)
  - **Oregon Revised Statutes, § 777.065** (declaring the development and improvement of certain port facilities at the Ports of Umatilla, Morrow, Arlington, The Dalles, Hood River and Cascade Locks and the development of certain port facilities at Astoria, Coos Bay, Newport, Portland, and St. Helens as a state economic goal of high priority; thus directing all agencies to, among other things, assist these ports with available financial assistance when necessary)
  - **Oregon Revised Statutes, §§ 777.262 – 777.267** (establishing and regulating the Marine Navigation Improvement Fund)
  - **Oregon Revised Statutes, §§ 777.915 – 777.953** (particular provisions applicable to the Oregon International Port of Coos Bay)

- [Oregon Revised Statutes, Chapter 778](#) (granting powers to the Port of Portland in addition to the powers granted under Chapter 777)
- [Oregon Revised Statutes, Chapter 198](#) (containing provisions applicable to special districts, of which port districts organized under Chapters 777 and 778 are included; such provisions consist of regulations in addition to, and sometimes overlapping, those of Chapters 777 and 778)
- [Oregon Revised Statutes § 285A.627](#) (requiring approval of the Oregon Infrastructure Finance Authority – a part of the Oregon Business Development Department – as a prerequisite to forming a port district)
- [Oregon Revised Statutes, Chapter 308](#) (authorizing port districts to assess taxes on certain ocean-going ships)
- [Oregon Revised Statutes §§ 367.080 – 367.086](#) (establishing and regulating the *ConnectOregon* funding program)
- [Oregon Revised Statutes, Chapter 285A](#)
  - [§ 285A.627](#) (requiring approval of the Oregon Infrastructure Finance Authority – a part of the Oregon Business Development Department – as a prerequisite to forming a port district)
  - [§§ 285A.654-285A.660](#) (establishing and regulating the Port Planning and Marketing Fund)
  - [§§ 285A.666-285A.732](#) (establishing and regulating the Oregon Port Revolving Fund)
- [Oregon Revised Statutes, §§ 285B.410 – 285B.482](#) (establishing and regulating the Special Public Works Fund)
- [Oregon Revised Statutes § 850.150](#) (establishing and regulating the Boating Facility Grant Program, and authorizing the Maintenance Assistance Program)
  - [Oregon Administrative Rules § 250-014-0004](#) (Oregon State Marine Board regulations governing the Maintenance Assistance Program)
- [Oregon Department of Transportation](#)
- [Oregon Infrastructure Finance Authority](#)
- [Oregon State Marine Board](#)
- [Oregon Public Ports Association](#)

## K. PENNSYLVANIA

Legislation in Pennsylvania establishes the Allegheny Port Authority,<sup>22</sup> Philadelphia Regional Port Authority,<sup>23</sup> Delaware River Port Authority,<sup>24</sup> and Pittsburgh Port Commission.<sup>25</sup> All of these authorities have the power to issue bonds, but not to impose taxes. In addition to directly creating these authorities, the legislature has also authorized “third class”<sup>26</sup> cities to establish port authorities. Like the authorities specifically created by the legislature, these port authorities may issue bonds, but may not impose taxes. Through the Office of PennPORTS,<sup>27</sup> Pennsylvania provides state funding to aid the Philadelphia Regional Port Authority, the Pittsburgh Port Commission, and the Erie-Western Pennsylvania Port Authority, which was established by the City of Erie pursuant to the authority granted to third class cities to create port authorities. PennPORTS administers this funding by receiving annual submissions for funding requests from the individual ports and, in turn, submitting an annual request to the Governor for funds from the state’s General Fund. Thus, the funding levels depend on appropriations from the General Fund.

- [Delaware River Port Authority, Bi-State Compact](#) (approved by both the Pennsylvania and New Jersey Congress, and thus creating the Authority)<sup>28</sup>
- [Delaware River Port Authority](#)
- [55 Pennsylvania Statutes §§ 697.1 – 697.24](#) (establishing and regulating the Philadelphia Regional Port Authority)
- [Philadelphia Regional Port Authority](#)
- [55 Pennsylvania Statutes §§ 698.21 – 698.37](#) (establishing and regulating the Port of Pittsburgh Commission)
- [Port of Pittsburgh Commission](#)
- [55 Pennsylvania Statutes §§ 551 – 563.7](#) (establishing and regulating port authorities in second-class counties – Allegheny County)
- [55 Pennsylvania Statutes §§ 571 – 586](#) (authorizing the establishment of, and otherwise regulating, port authorities in third class cities)
- [The Erie-Western Pennsylvania Port Authority](#)
- [4 Pennsylvania Code §§ 7.621 – 7.624](#) (creating and regulating the Office of PennPORTS)

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<sup>22</sup> Legislation creating the Allegheny Port Authority applies to “second class” counties and does not specifically refer to the Allegheny Port Authority; however, Allegheny County is the only second class county in Pennsylvania, which is the category assigned to a county with a population between 800,000 and 1,500,000 people.

<sup>23</sup> The Philadelphia Regional Port Authority is an independent agency of the state that manages the Port of Philadelphia, which is owned by the state.

<sup>24</sup> The Delaware River Port Authority was created by interstate compact, which required consent by Congress (*see* Article I, § 10 of the U.S. Constitution) and was formally approved by the legislatures of both Pennsylvania and New Jersey (*see* the codification of Pennsylvania’s formal approval at [36 Pennsylvania Statutes §§ 3503](#)).

<sup>25</sup> An independent agency of the state.

<sup>26</sup> Classes of city in Pennsylvania are, for the most part, categorized by population.

<sup>27</sup> The Office of PennPORTS is within the Pennsylvania Department of Community and Economic Development.

<sup>28</sup> Codified at [36 Pennsylvania Statutes §§ 3503](#).

## L. SOUTH CAROLINA

The Port of Charleston, which is designated as the official state port, and the Port of Georgetown are the two main ports of South Carolina. The South Carolina Ports Authority is an independent public entity of the state established for the purposes of owning and operating both of these ports. The 11-member board of directors of the South Carolina Ports Authority is authorized to issue bonds; however, no state funding program for ports exists in South Carolina. Also, cities with a population greater than 50,000 located on a tidal or nontidal navigable stream may acquire certain property and establish port utilities commissions for the purposes of maintaining and operating port and terminal utilities. Yet, these commissions may not incur indebtedness without the express authorization or concurrence of the city establishing the commission.

- [South Carolina Code, Title 54, Chapter 3](#) (statutory provisions under which the South Carolina Ports Authority is organized)
- [South Carolina Code § 54-1-10](#) (declaring the port of Charleston as the State Port of South Carolina)
- [South Carolina Code, Title 54, Chapter 5](#) (providing the authority for municipalities to establish port utilities commissions, and otherwise regulating these commissions)
- [South Carolina Ports Authority](#)

## M. TEXAS

The state of Texas has 11 deep draft and at least nine shallow draft public ports. The state itself does not own any ports. Port authorities in Texas can be established by counties as “navigation districts” pursuant to chapters 61, 62, or 63 of the State Water Code. Some navigation districts are also legislatively established, and their operations otherwise prescribed, by special act. Regardless of how navigation districts are established, the Texas Constitution provides the underlying foundation for their formation. Furthermore, although the precise form of governance in various districts takes on many forms, the Water Code authorizes such districts as “governmental agencies and bodies politic and corporate with the powers of government and with the authority to exercise the rights, privileges, and functions which are essential to the accomplishment of those purposes.” In regards to the authority to operate and develop port facilities,<sup>29</sup> the Water Code extends this authority to districts that are created for the development of deep-water navigation and that include a city with a population in excess of 100,000. These districts may issue bonds and levy taxes.

Other than the authority given to navigation districts, municipalities in Texas may also directly raise funds when necessary to improve harbors and ports. Also, all municipalities located on the Gulf of Mexico can issue bonds for the purpose of harbor improvement, and a municipality with

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<sup>29</sup> This authority includes the authority to operate and develop facilities such as grain elevators, floating plants, towing facilities, docks, and other “facilities or aids incident to or necessary to the operation or development of ports and waterways.”

a population of more than 5,000 that is located on the Gulf of Mexico<sup>30</sup> and owns a port may also issue bonds for port maintenance and operation.

As for state funding for ports, the Texas Legislature has created a program for funding public ports, which has yet to receive any appropriations. This program is administered by the Texas Department of Transportation and creates a seven-member Port Authority Advisory Committee, which prepares a biannual report detailing funding needs and capital projects submitted by public ports. To provide matching funds for the projects and needs listed in the report, the legislature created a Port Access Account Fund; but, by failing to make any appropriations to this fund, the legislature has thus far failed to fund the only state program for ports.

- **Texas Constitution:** [§ 52, Art. III](#)<sup>31</sup> and [§ 59, Art. XVI](#) (authorizing navigation districts)
- **Texas Water Code: Chapters 60, 61, 62, and 63** (governing navigation districts)
  - Chapter 61 applies to navigation districts established under the provisions of Article III, Section 52, of the Texas Constitution, whereas Chapters 62 and 63 apply to navigation districts established under Article XVI, Section 59. The procedures for establishing districts are similar under both chapters, but note that Chapter 61 allows a district to contain territory in up to two counties, and chapter 62 allows for territory in up to three counties. Chapter 60 consists of provisions generally applicable to all navigation districts. Moreover, districts created pursuant to chapter 61 may convert to a Chapter 62 district, and districts created under either Chapter 61 or 62 may convert to a Chapter 63 district (a “self-liquidating” district created pursuant to Article XVI, Section 59 of the Constitution).
- **[Texas Government Code, Chapter 1505](#)** (relating to the issuance of bonds by coastal municipalities for coastal matters)
- **[Texas Transportation Code, Chapter 54](#)** (applies only to municipalities that own ports and have populations greater than 5,000)
  - Municipalities to which this chapter applies may, with voter approval, levy taxes for the operation or maintenance of a port or harbor.
- **[Texas Transportation Code, Chapter 55](#)** (codifying the state program for providing funds to ports, the chapter is titled “Funding of Port Security, Projects, and Studies”)
- **[Port of Houston Authority](#)** (an example of a district recognized by special law)
- **[Session Laws—Acts 1927, 40th Leg., 1st C.S., pp. 256, 257, ch. 97](#)** (recognizing the existence of the Port of Houston Authority).
- **[Texas Ports Association](#)**

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<sup>30</sup> This includes municipalities on a “channel, canal, bay, or inlet” connected with the Gulf of Mexico.

<sup>31</sup> Note, however, no reason now exists for the establishment of navigation districts under Article III, Section 52, because of more restrictive measures related to issuing bonds. Article XVI, Section 59 was subsequently added to the Constitution without the same restrictions. Moreover, districts established under Article III, Section 52 were allowed to convert to the provisions of Article XVI, Section 59. Despite these requirements, Chapter 61 of the Water Code regulates, among other things, the establishment and operation of such navigation districts.



## **N. VIRGINIA**

The State of Virginia houses a large port complex in the greater Norfolk-Hampton Roads area, known as the Port of Virginia, owned and operated by the Virginia Ports Authority (VPA) – an independently operated unit of the state. The VPA has created the nonprofit Virginia International Terminals, Inc., as an affiliate to manage day-to-day operations at the port complex. Support for VPA’s capital and operating budgets comes from a biannual appropriation from the state’s Transportation Trust Fund revenue. Within the Transportation Fund, the Virginia Legislature created a Commonwealth Port Fund that receives 4.2% of the Fund’s revenue each year, and these funds go directly to the VPA to administer. Although the VPA owns and operates the Norfolk-Hampton roads port complex, the legislation also allows for other smaller ports in the state to apply to the VPA to receive these funds. These smaller ports include, but are not limited to, the ports of Richmond (city owned and privately operated, but leased by the VPA), Alexandria, and Hopewell. The VPA may not impose taxes, but the Commonwealth Port Fund is a dedicated funding source that has greatly aided in the relatively successful growth of Virginia’s ports. Moreover, where a local jurisdiction has a port within its boundaries, state legislation also allows the presiding local government to create agencies, appoint agents, and employ personnel that might be necessary for the management of the port and its harbor. However, this authority is subordinate to any exercise of authority by the VPA.

- [Va. Code §§ 62.1-128 – 62.1-147.2](#) (creating and regulating the Virginia Ports Authority)
- [Virginia Port Authority](#)
- [Va. Code § 58.1-638\(A\)\(1\) & \(2\)](#) (providing for the creation, administration, and funding of the Commonwealth Port Fund)
- [Port of Richmond](#)
- [Va. Code § 62.1-163](#) (allowing local governments with ports to conduct certain activities for port management)

## **O. WASHINGTON**

Washington currently houses 75 public port districts, which makes it the state with the most port districts in the United States and makes its port system the largest locally controlled port system in the world. State legislation authorizes the creation of such districts and, among the numerous powers afforded by state law, port districts may levy taxes and issue bonds. Most of the revenue for Washington’s port districts comes from the districts’ taxing power, but state funds are also available for port districts through a program managed by Washington’s Community Economic Revitalization Board. Projects eligible for grants and loans under this program mainly consist of public infrastructure projects that facilitate economic development. The Washington State Department of Commerce provides administrative services to the Community Economic Revitalization Board. Furthermore, as another mechanism available to port districts for raising funds, the state also authorizes port districts to create Industrial Development Corporations for the purpose of issuing industrial revenue bonds.

- [Revised Code of Washington, Title 53](#) (allowing for the establishment of, and otherwise regulating, port districts)
- [Revised Code of Washington, Chapter 43.160](#) (providing the authority and guidelines for the Community Economic Revitalization Board)
- [Revised Code of Washington, Chapter 39.84](#) (authorizing and regulating the creation and operation of Industrial Development Corporations)
  - Note, Chapter 39.84 authorizes the creation of Industrial Development Corporations by “municipalities;” however, [§ 39.84.020](#) defines municipalities to include port districts.
- [Revised Code of Washington § 53.06.030](#) (giving port district commissions the power to designate the Washington Public Ports Association as a coordinating agency through which certain duties of the district commissions may be performed; and establishing the various purposes, power, and duties of the Association)
- [Washington Public Ports Association](#) (an association authorized as a coordinating agency for port districts by the State Legislature)

## **P. WISCONSIN**

Wisconsin houses a number of ports on the shores of the Great Lakes and two ports on the banks of the Mississippi River. Municipalities in Wisconsin control harbors located within and adjacent to their boundaries, and state law authorizes local governments to create boards of harbor commissioners, issue bonds, and levy taxes in order to pay for certain harbor improvements and operations.

Wisconsin also provides state funding through its Harbor Assistance Program, which offers grants to help communities with commercial ports maintain and improve waterborne commerce. The Wisconsin Department of Transportation administers this program in consultation with the Wisconsin Coastal Management Council. Eligible applicants consist of local governments, including boards of harbor commissioners, and private owners of harbor facilities. Where a grant authorized by the program is awarded to a private owner of a harbor facility, the owner is required to hold the facility open to the public for a certain amount of time. Enabling legislation for the program authorizes the Wisconsin Department of Transportation to establish criteria for determining which projects actually receive grants under the program, and requires that the Department prioritize projects in harbors handling larger amounts of tonnage and waterborne transportation. Pursuant to the criteria it established, the Department conducts a rigorous benefit-cost analysis. The legislature generally appropriates funds for the program every two years, and competitive grant applications are accepted twice each year. Between 1980 and 2012, almost \$100 million was awarded pursuant to the program. The legislature budgeted \$11.8 million for the 2010 – 2013 biennium.

- [Wisconsin Constitution, Article VIII, § 10](#) (allowing the legislature to provide funds for port improvements)

- [Wisconsin Statutes, Chapter 30, Subchapter III \(§§ 30.30 - 30.38\)](#) (giving municipalities with navigable waterways inside, or adjacent to, their borders various powers related to harbor development and operation, including the power to establish boards of harbor commissioners, make improvements and repairs, make special assessments, levy taxes, and issue bonds; and also otherwise regulating harbor development and operation)
- [Wisconsin Statutes, § 85.095](#) (the authority pursuant to which the Wisconsin Department of Transportation administers the Harbor Assistance Program)
- [Wisconsin Administrative Code, § TRANS. 28](#) (the regulations under which the Wisconsin Harbor Assistance Program is implemented)
- [Wisconsin Department of Transportation](#) (administers the Wisconsin Harbor Assistance Program)
- [The Wisconsin Department of Transportation's Harbor Assistance Program Webpage](#)
- [Wisconsin Coastal Management Council](#) (consults with the Wisconsin Department of Transportation in its administration of the Wisconsin Harbor Assistance Program)
- [Wisconsin Harbor Towns Association](#) (an organization promoting its various Lake Michigan and Lake Superior member communities)
- [Wisconsin Marine Association](#) (an organization assisting and promoting recreational boating facilities and marine businesses in Wisconsin)
- [Wisconsin Commercial Ports Association](#) (an association facilitating the exchange of information and promoting the interests of the commercial ports in the State of Wisconsin)

## II. State Resources

### A. CONNECTICUT

- [Connecticut General Statutes § 7-329a – 7-329\(u\)](#) (authorizing municipalities to establish port districts)
- [Connecticut General Statutes §§ 32-220 – 32-234](#) (codification of the Economic Development and Manufacturing Assistance Act of 1990, which provides funding opportunities to non-profit organizations and municipalities; under the Act, municipalities can designate an “implementing agency” to exercise its powers, and an “implementing agency” is defined to include a port authority; an implementing agency may also initiate a municipal development project through a prescribed procedure)
- [Connecticut General Statutes § 13b-55a & 13b-55b](#) (establishing a Harbor Improvement Account for the Commissioner of Transportation to use to initiate harbor improvement projects; however, this account has apparently yet to receive funding from the legislature)

- [Connecticut General Statutes § 13b-51a](#) (establishing the 14-member Connecticut Maritime Commission within the Connecticut Department of Transportation to, among other activities, give policy advice, make certain recommendations, and develop maritime policy)
- [Connecticut General Statutes § 13b-51b](#) (establishing the Bureau of Aviation & Ports within the Connecticut Department of Transportation to, among other things, give policy advice, conduct certain maritime operations, and provide staff support to the Connecticut Maritime Commission)
- [New Haven Port Authority](#)
- [Bridgeport Port Authority](#)
- [Connecticut Maritime Commission](#)
- [Connecticut Bureau of Aviation & Ports](#)

## **B. DELAWARE**

- [Delaware Code §§ 8780 – 8787](#) (establishing and regulating the corporate entity that operates the Port of Wilmington)
- [Port of Wilmington](#) (the only major port in the State of Delaware; owned and operated by the Diamond State Port Corporation – a corporate entity of the state that receives no dedicated funding support from the state)

## **C. FLORIDA**

- [Florida Statutes, Chapter 311](#) (establishing and regulating the Florida Seaport Transportation and Economic Development Program within the Florida Department of Transportation, which provides funding and other assistance to certain enumerated ports; and, as part of the program, establishing the Florida Seaport Transportation and Economic Development Council)<sup>32</sup>
  - Note, [§ 311.22](#) of this Chapter requires that the Florida Seaport Transportation and Economic Development Council establish a program to fund certain dredging projects in counties with a population less than 300,000.
- [Florida Statutes § 320.20\(3\)](#) (providing for a \$15 million annual deposit from the revenues derived through state motor vehicle registration into the Transportation Trust Fund, for the purpose of funding the Florida Seaport Transportation and Economic Development Program; and requiring that these funds be used only to fund the certain capital improvement projects of the Council's<sup>33</sup> member-ports)

<sup>32</sup> The ports enumerated under the Florida Seaport Transportation and Economic Development Program consist of the ports of Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key West, and Fernandina.

<sup>33</sup> The Florida Seaport Transportation and Economic Development Council.

- [Florida Statutes § 320.20\(4\)](#) (providing for a \$10 million annual deposit from revenues derived through state motor vehicle registration into the Transportation Trust Fund, both for the same purpose as detailed in § 320.20(3) and for funding certain “seaport intermodal access projects of statewide significance”<sup>34</sup> of the Council’s member-ports)
- [Florida Statutes, Chapter 315](#) (conferring certain powers on specified local governmental units, such as port authorities; the powers conferred are in addition to any other powers vested include the power to issue bonds)
- [Florida Seaport Transportation and Economic Development Council](#)
- [Florida Ports Council](#)
- [Florida Ports Financing Commission](#)
- [Florida Statutes § 125.011\(2\)\(a\)](#) (expressly authorizing – by defining the word “project” to include harbor, port, and shipping facilities of all kinds – counties operating under home-rule charters to, among other port related activities, develop and operate port and harbor facilities)<sup>35</sup>
- [Florida Statutes §§ 342.07 & 342.201](#) (applying to and creating the Waterfronts Florida Program to provide assistance to certain waterfront communities, which includes implementation of the Waterfronts Florida Partnership Program)
- [Waterfronts Florida Program](#)

#### D. GEORGIA

- [Georgia Code, Title 52, Chapter 2](#)<sup>36</sup> (creating and regulating the Georgia Ports Authority as a quasi-state agency with the power to issue bonds)
- [Georgia Ports Authority](#)
- [Georgia Constitution Article IX, Section VII](#)<sup>37</sup> (authorizing the creation of local Community Improvement Districts to, among other purposes, provide terminal and dock facilities; also allowing these districts to impose taxes and issue bonds)

#### E. HAWAII

- [Hawaii Revised Statutes, Chapter 266](#) (regulating harbors)
  - [§ 266-1](#) (charging the Hawaii Department of Transportation with operating ports owned or controlled by the state)

<sup>34</sup> These types of projects are prescribed in [Florida Statutes § 341.053](#).

<sup>35</sup> See other various sections of [Florida Statutes, Chapter 125](#) for the broad authority conferred to counties.

<sup>36</sup> Terms and Conditions must be agreed to in order to use the LexisNexis publication of the Mississippi Code. Agree to the terms and conditions by clicking “I Agree.” After clicking “I Agree,” navigate to the desired section of the code.

<sup>37</sup> Links to a webpage of GeorgiaInfo – an online resource offered by the University of Georgia Libraries – displaying Article XII in its entirety. Scroll down to view Section XII of the Article.

- [§ 266-19](#) (providing for the creation and distribution of a harbor special fund)
- [Hawaii Department of Transportation’s Harbor Division](#) (operates 10 commercial ports; funded by its own operating revenues)
- [Department of Land and Natural Resources’ Division of Boating and Ocean Recreation](#) (manages a variety of small boat harbors, two deepdraft harbors, and other coastal facilities)

## F. INDIANA

- [Indiana Code, Title 8, Article 10](#)
  - [Chapters 1 – 4](#) (applicable to the Ports of Indiana, which operates the three public ports of Indiana)
  - [Chapter 5](#) (authorizing the creation of port authorities by local governments, and otherwise regulating port authorities)
  - [Chapter 9](#) (authorizing the creation of waterway management districts)

## G. LOUISIANA

- [Louisiana Constitution, Article VI, § 43](#) (ratifying the existence of deep-water port authorities already established before the ratification of the present Constitution, and authorizing the legislature to create new port authorities)
- [Louisiana Revised Statutes, Title 34](#) (legislative establishment and regulation of public port authorities)

## H. MICHIGAN

- [Michigan Compiled Laws §§ 120.101 – 120.30](#) (providing authorization for local governments to establish port authorities and otherwise regulating such authorities; which includes giving authorities bonding power, requiring that municipalities and counties that have established port authorities levy taxes to pay for certain port facility projects, and requiring the state pay 50% of the operating budgets of port authorities)<sup>38</sup>
- [Michigan Port Collaborative](#) (a coalition engaged in advocacy, collaboration, and other activities in support of ports)

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<sup>38</sup> Port authorities annually submit an estimate of budgetary needs for operations and maintenance; the state must provide these budgetary needs by including them in the Department of Transportation budget, “which shall be subject to legislative approval.”



## I. NEW HAMPSHIRE

- [New Hampshire Revised Statutes, Title I, Chapter 12-G](#) (creating the Pease Development Authority, which operates as the State Port Authority at the Port of New Hampshire and is housed within the State's Division of Ports and Harbors)
- New Hampshire Revised Statutes
  - §§ [12-G:43\(b\)](#) & [12-G:54](#) (applicable to the Revolving Loan Fund Program, which provides loans to certain commercial fishing businesses)
  - § [12-G46](#) (establishing a Harbor Dredging and Pier Maintenance Fund, which is apparently unfunded)
- [Port of New Hampshire](#)

## J. NEW JERSEY

- [New Jersey Statutes, Title 32, Chapter 1](#)<sup>39</sup> (codifying a copy of the interstate compact, with supplementary and amendatory laws, that created and regulates the Port Authority of New York and New Jersey, which was the first interstate agency established pursuant to Article I, § 10 of the U.S. Constitution)
- [New Jersey Statutes, Title 32, Chapter 2](#)<sup>40</sup> (the statutes, other than those in Title 32, Chapter 1, that regulate the Port Authority of New York and New Jersey)
- [Port Authority of New York and New Jersey](#)
- [Delaware River Port Authority, Bi-State Compact](#) (approved by both the Pennsylvania and New Jersey Congress, thereby creating the Authority)<sup>41</sup>
- [South Jersey Port Corporation](#)
- [New Jersey Statutes, Title 12, Chapter 11A](#) (creating and regulating the South New Jersey Port Corporation)
- [New Jersey Statutes, Title 40, Chapter 68A](#)<sup>42</sup> (authorizing and regulating municipal port authorities)

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<sup>39</sup> Links to the webpage displaying the first section of Title 32 (§ 32:1-1) of the New Jersey Statutes. This webpage is part of the New Jersey State Legislature's online statutory database, which is relatively onerous to navigate. Subsequent sections – providing the remaining statutory sections of the codification of the interstate compact – can be accessed by clicking on the arrow located at the bottom right corner of the webpage.

<sup>40</sup> Links to a webpage on the Rutgers-Newark Law Library's version of the New Jersey Statutes. This webpage displays links to the sections of Chapter 2 in Title 32 of the New Jersey Statutes.

<sup>41</sup> Codified at [New Jersey Statutes Annotated § 32:3-1](#).

<sup>42</sup> Links to a webpage on the Rutgers-Newark Law Library's version of the New Jersey Statutes. This webpage displays links to the sections of Chapter 68A in Title 40 of the New Jersey Statutes.

## K. NEW YORK

- **N.Y. Unconsolidated Laws, Title 17, Chapter 1, §§ 6401 – 6423** (codifying the interstate compact that created and regulates the Port Authority of New York and New Jersey)
- **N.Y. Unconsolidated Laws, Title 17, Chapter 1, §§ 6451 – 2717** (the statutes, other than those in Title 17, Chapter 1, §§ 6401 – 6423, that regulate the Port Authority of New York and New Jersey)
- [Port Authority of New York and New Jersey](#)
- [N.Y. Unconsolidated Laws, Chapter 192/25](#) (establishing and regulating the Albany Port District and Albany Port District Commission)
- [Albany Port District Commission](#)
- [N.Y. Public Authorities, Article 6, Title 3](#) (establishing and regulating the Ogdensburg Port Authority)
- [Ogdensburg Bridge and Port Authority](#)
- [N.Y. Public Authorities, Article 6, Title 2](#) (establishing and regulating the Port of Oswego Authority)
- [Port of Oswego Authority](#)

## L. NORTH CAROLINA

- [North Carolina General Statutes, Chapter 136, Article 20](#) (statutory authority under which the North Carolina State Ports Authority is organized)
- [North Carolina State Ports Authority](#)

## M. OHIO

- [Ohio Revised Code, Chapter 4582](#) (authorizing the establishment of port authorities by local governments; and otherwise containing regulations applicable to port authorities, including regulations providing such authorities with certain powers to issue bonds and levy taxes)
  - Note, some provisions in Chapter 4582<sup>43</sup> (where the Port Authorities Act is codified) apply exclusively to port authorities in existence on July 9, 1982, and other provisions<sup>44</sup> apply exclusively to port authorities created after such date. However, the local government creating the port authority may take action to permit authorities

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<sup>43</sup> § 4582.01 – 4582.20.

<sup>44</sup> § 4582.21 – 4582.59.

in existence on July 9, 1982, to operate under the provisions applicable to authorities created after this date.<sup>45</sup>

- [Ohio Revised Code, Chapter 166](#) (creating and regulating the Ohio Enterprise Bond Fund Program, which is administered by the Ohio Department of Development and provides loans for a variety of economic development purposes)
- [Ohio Revised Code § 5531.09](#) (establishing and regulating the State Infrastructure Bank Program, which is administered by the Ohio Department of Transportation and provides loans to public entities, including port authorities, for certain transportation projects)
- [Cleveland-Cuyahoga Port Authority](#)
- [Port of Greater Cincinnati Development Authority](#)
- [Ohio Department of Development](#)
- [Ohio Department of Transportation](#)

#### **N. RHODE ISLAND**

- [Rhode Island General Laws, Chapter 42-64.10](#) (authorizing and establishing the Quonset Development Corporation to develop and manage, as a subsidiary of the Rhode Island Economic Development Corporation, the Quonset Point/Davisville Industrial Park;<sup>46</sup> providing for certain powers and duties of the Quonset Development Corporation, which do not include the power to directly issue bonds or levy taxes; providing that, although the Quonset Development Corporation may not issue bonds, the Rhode Island Economic Development Corporation may do so on its behalf)
- [Rhode Island General Laws § 42-64-7.12](#) (transferring to the Quonset Development Corporation certain duties and responsibilities of the Rhode Island Economic Development that relate to the Quonset Point/Davisville Industrial Park)
- [Quonset Development Corporation](#) (operating the Port of Davisville – one of the major commercial ports in Rhode Island)
- [Rhode Island Economic Development Corporation](#)
- [Port of Providence](#)

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<sup>45</sup> § 4582.201.

<sup>46</sup> The Quonset Point/Davisville Industrial Park includes the Port of Davisville.

The *Sustainable Working Waterfronts Toolkit* is available at:

<http://www.WaterAccessUS.com>

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