

SPECIAL DISTRICT LOCAL LAWS CODE

TITLE 5. TRANSPORTATION

SUBTITLE A. NAVIGATION DISTRICTS AND PORT AUTHORITIES

CHAPTER 5007. PORT OF HOUSTON AUTHORITY OF HARRIS COUNTY, TEXAS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 5007.001. DEFINITIONS. In this chapter:

(1) "Authority" means the Port of Houston Authority of Harris County, Texas.

(2) "Executive director" means the executive director of the authority.

(3) "Port commission" means the navigation and canal commission of the authority.

(4) "Port commissioner" means a member of the port commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 1, eff. September 1, 2013.

Sec. 5007.002. CREATION OF DISTRICT; VALIDATION; TERRITORY.

(a) That, effective June 6, 1927, the Harris County Houston Ship Channel Navigation District of Harris County, Texas, in Harris County, as hereinafter described by metes and bounds, is hereby created and established under authority of Article 3, Section 52, of the Constitution of the State of Texas, for the purpose of the development of deep water navigation and the improvement of rivers, bays, creeks, streams, and canals within or adjacent to the authority, including the Houston Ship Channel and dredge material management areas, and to construct and maintain canals or waterways to permit navigation or in aid thereof and for the purpose of and authority to acquire, purchase, undertake, construct, maintain, operate, develop, and regulate wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants, lighterage, lands, dredge material management areas, towing facilities, and all other facilities or aids incident to or necessary to the operation or development of ports or waterways within the authority, including the Houston Ship Channel and dredge

material management areas, as provided in Chapter 9 of the Revised Statutes of 1925; and all orders of the Commissioners' Court of Harris County, Texas, and of the Navigation Commissioners, heretofore made in respect to the creation of such authority and the authorization and issuance of the bonds of said authority are hereby in all things ratified, confirmed, and validated.

(b) The authority herenow created and established after consideration of the benefits to the property therein located, is described by metes and bounds as follows, to-wit:-

Beginning at the entrance to Clear Creek into Galveston Bay; thence running up said creek with the line of Galveston and Brazoria Counties to a point on S. G. Haynie's survey 372 varas S. 62 degrees 32 minutes E. from its west line; thence N. 62 degrees 32 minutes W. 12 miles 318 varas to the head of Brays Bayou; thence N. 56 degrees 30 minutes W. 15 miles 1455 1/2 varas to the old crossing of Buffalo Bayou; thence with the line of Waller County in a straight line to the head of creek; thence down the same with its meanders to the San Jacinto River; thence N. 50 degrees east to the western line of Liberty County; thence with said line to the head of Cedar Bayou; thence down said bayou to its mouth; thence following the boundary line of Harris County to the mouth of Clear Creek, the place of beginning.

Transferred, redesignated and amended from Local Water Laws, Section 1, Chapter 97, 40S1 by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 2, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 758 (S.B. [1864](#)), Sec. 1, eff. June 12, 2017.

Sec. 5007.003. AUTHORITY TO ISSUE BONDS. The authority is authorized and empowered to issue in direct conformity with the Constitution and the laws of this State as and when necessary such bonds as may be voted from time to time by the voters voting at any election when called and conducted in direct conformity with the Constitution and laws of Texas and to issue and sell the same subject to such provisions of the Constitution and laws of this State as may be in effect at the time, and subject to the approval of

the Attorney General.

Transferred, redesignated and amended from Local Water Laws, Section 7, Chapter 97, 40S1 by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 2, eff. September 1, 2013.

Sec. 5007.004. GRANT OF TITLE TO CERTAIN ISLANDS AND OTHER LAND; RELATED POWERS AND DUTIES; RIPARIAN LANDOWNERS; RESERVATION OF CERTAIN STATE RIGHTS AND POWERS. (a) That all right, title and interest of the State of Texas, to all lands hereinafter in this section described, to wit:

All islands and lands owned by the State of Texas, many of which are subject to overflow, known as Barnes Island, Alexander Island, Goat Island, Diamond Island and Hog Island in San Jacinto River above Lynchburg, and certain accretions formed by dredged material excavated from the channel and forming land attached to or near said Alexander Island, Hog Island between Goose Creek and Morgan Point, Atkinson Island, and all the submerged lands lying and being situated under the waters of Buffalo Bayou, San Jacinto River, White Oak Bayou, Bray's Bayou, Simms Bayou, Vinces Bayou, Hunting Bayou, Greens Bayou, Carpenters Bayou, Old River, Lost River, Goose Creek and Cedar Bayou, and all other streams within the authority tributary to the Houston Ship Channel, so far up said streams as the State may own same, together with all lands lying and being situated under the waters of Old River, Burnett's Bay, Crystal Lake, Scott's Bay, Peggy's Lake, Black Duck Bay, Tabbs Bay and San Jacinto Bay, and all other tidal flats or overflow land adjacent to or appurtenant to the above mentioned streams within the limits above mentioned except Mitchell's Bay and any area between said bay and the Houston Ship Channel, as now or hereafter located, is hereby granted to the authority, or its successors, for public purposes and for the development of commerce only, in accordance with the following provisions and stipulations herein contained; provided that inasmuch as it is the purpose of this section to grant said lands to the public agency which is developing the Port of Houston, upon the creation by legislation of other public agency which shall supersede the authority as the public agency developing the Port of Houston, the title to said lands shall

be transferred from the authority to such public agency, either municipal or State, so provided, such public agency being referred to herein as the successors of the authority.

(b) The authority, or its successors, is hereby granted the right, power and authority to authorize, establish, construct, purchase, own, maintain, equip, regulate, operate and lease wharves, piers, docks, dry docks, marine ways and all other structures and appliances for facilitating or accommodating commerce or navigation, and to dredge out channels, slips and turning basins, and to fill in space between the main land and islands and to fill areas for wharves, piers, docks, dry docks, marine ways and for all other structures and appliances for facilitating and accommodating commerce and navigation, having first secured a permit from the Government of the United States of America as required by Federal law, and to construct, or cause or authorize to be constructed on said wharves, piers, docks, dry docks, marine ways and other structures and appliances for facilitating and accommodating commerce and navigation, or on lands so filled in, any and all elevators, warehouses, bunkers, railway terminals and sidetracks, or any other facilities or aids whatsoever to navigation or commerce. Said lands shall be used by the authority, or its successors, solely for the establishment, improvement and conduct of a harbor and ship channel and for the construction, maintenance and operation of any facilities or aids whatsoever related to the same, and the authority, or its successors, shall not at any time, grant, convey, give or alien said lands or any part thereof, to any individual, firm or corporation for any purpose whatsoever; provided, that the authority, or its successors, may grant franchises thereon for limited periods of time for wharves, and other public uses and purposes, and may lease said lands and facilities or any part thereof for limited periods for purposes consistent with this chapter, but no wharves, piers or structures of any kind shall be constructed on said lands by anyone save the authority, except under a franchise or lease granted by the authority and in a manner first prescribed by and approved of by the authority or its successors.

(c) For the purpose of carrying out the provisions of this

section, the authority, or its successors, is hereby granted the right, power and authority to abate and remove any and all encroachments or structures of any kind now or hereafter existing on said property, save such as may have been constructed under permit from the proper Federal authority, and shall have the right to bring such suit or suits as may be necessary to carry out the provisions of this section to the same extent and as fully and completely as the right to bring such a suit or suits existed in the State prior to the passage hereof.

(d) The purposes and provisions of this section, and the grants, rights and privileges, thereunder to the authority, shall not affect, curtail or abridge the rights or privileges of riparian owners of lands abutting upon the islands and lands subject to overflow, and lands lying under the streams, bays and lakes herein described or referred to, as the same existed under the Common Law or the Constitution or Statutes of Texas as of June 14, 1927, or to deprive riparian land owners of access to such streams, channels or waters.

(e) The State of Texas, may at any time, place the operation of the facilities under Subsection (b) under the supervision of the Railroad Commission of Texas, to insure reasonable wharfage and storage charges.

(f) The right is hereby expressly reserved by the State of Texas to erect on the lands herein conveyed such wharves, piers and buildings for State purposes as may hereafter be authorized by law.

(g) All mines and mineral rights, including oil and gas in and under said lands, together with the right to enter there on for the purpose of development, and the granting of permits to excavate sand, shell or marl and to collect the tax on same, are hereby expressly reserved to the State of Texas; provided necessary or proper access to the lands hereby ceded, together with all improvements heretofore made, or to be made, under any mineral leases issued by the State in connection with mineral rights herein reserved are made a condition of this grant, and are covenants running with the ceded lands; provided further, that leases hereafter made by the State, or operations thereunder in connection with reserved mineral rights shall not interfere with the

improvements made, or to be made in the development of the ship channel by the authority, or franchise holders thereunder.

Transferred, redesignated and amended from Local Water Laws, Section 1, Chapter 292, 40R by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 3, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 758 (S.B. [1864](#)), Sec. 2, eff. June 12, 2017.

Sec. 5007.005. RIGHTS OF WAY; EASEMENTS. Nothing in this chapter shall prohibit the authority or its successors from granting to the United States of America such rights-of-way or easements as may be required by it for the construction of channels, basins, dumping grounds, or other allied purposes in connection with any work voluntarily undertaken by the Federal Government, or at the request of the authority or its successors.

Transferred, redesignated and amended from Local Water Laws, Section 8, Chapter 292, 40R by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 3, eff. September 1, 2013.

Sec. 5007.006. REVENUE OBLIGATIONS; CERTAIN POWERS; FEES AND CHARGES; FACILITIES; TAXATION EXEMPTION; REFUNDING BONDS; CERTAIN BOND PROVISIONS. (a) The authority, in addition to all other powers conferred by law, is hereby given authority and shall hereafter have power in the manner hereinafter provided to acquire, purchase, construct, enlarge, extend, repair, maintain, operate, or develop channels and turning basins, wharves, docks, warehouses, grain elevators, bunkering facilities, railroads, floating plants and facilities, lightering facilities and towing facilities, bulk handling facilities, and everything appurtenant thereto, together with all other facilities or aids incident to or useful in the operation or development of the authority's ports and waterways or in aid of navigation and commerce thereon.

(b) The port commission may covenant to and shall prescribe fees and charges to be collected for the use of those improvements and facilities of the authority (the net revenues of which improvements and facilities are pledged, as hereinafter provided),

which fees and charges shall be reasonable and equitable and fully sufficient to produce revenues adequate to pay, and said port commission shall cause to be paid:

(1) All expenses necessary to the operation, replacement and maintenance of said improvements and facilities. Such operating and maintenance expenses payable from current revenues shall include the cost of the acquisitions of properties and materials necessary to repair, replace and maintain said improvements and facilities in good condition and operate them efficiently, wages and salaries paid to the employees of the authority in that connection, and such other expenses as may be necessary to the efficient operation of said improvements and facilities.

(2) The annual or semiannual interest upon any obligations issued hereunder and payable out of the revenues of said improvements and facilities.

(3) The amount required to be paid annually into the sinking fund for the payment of any obligations issued hereunder and payable out of the revenues of said improvements and facilities.

(4) The amount or amounts required to be paid in reserve funds or other funds as may be provided for in the proceedings authorizing such obligations, to secure the payment of the obligations issued pursuant to the provisions hereof.

(b-1) Revenues which may be received in excess of those required for the purposes listed in the above Subsection (b) may be used by the port commission to pay the cost of any other authority improvements or for any other lawful purpose.

(c) The port commission may borrow money from any department or agency of the United States, or from any other source, and in evidence thereof issue the notes, warrants, certificates of indebtedness, negotiable bonds, or other forms of obligation of the authority (heretofore and hereafter referred to as "obligations") payable solely out of the revenues to be derived from said improvements and facilities for any or all of the purposes set forth in Subsection (a).

(d) Such obligations shall not constitute an indebtedness

or pledge of the credit of the authority, and the holders thereof shall never have the right to demand payment thereof out of any funds raised or to be raised by taxation, and such obligations shall contain a recital to that effect. All obligations issued hereunder shall be in registered or coupon form, and if in coupon form may be registerable as to principal only, or as to both principal and interest, shall bear interest at a rate not to exceed the amount allowed by law, payable annually or semiannually, and shall be in such denominations and shall mature serially or at one time not more than forty (40) years from their date in such manner as may be provided by the port commission. Principal of and interest on such obligations shall be made payable at any place or places within or without the State of Texas, and in the discretion of the port commission such obligations may be made callable and/or refundable at the option of the port commission prior to maturity at such premium or premiums as the port commission shall determine. Such obligations shall be signed by the manual or facsimile signatures of the chair of the port commission and the executive director as may be provided in the proceedings authorizing said obligations, and the interest coupons attached thereto may also be executed by the facsimile signatures of such officers. Such obligations shall be sold in such manner and at such times as the port commission shall determine to be expedient and necessary to the interests of the authority, provided, that in no event shall such obligations be sold for a price which will result in an interest yield therefrom of more than the amount allowed by law computed to maturity according to standard bond tables in general use by banks and insurance companies. Any premium or premiums provided for the call or refunding of any bonds issued pursuant to this Section shall not be included in the computation of the maximum interest yield on such bonds. In the event of the officers whose signatures are on such obligations or coupons shall cease to be such officers before the delivery of such obligations to the purchaser, such signature or signatures, nevertheless, shall be valid and sufficient for all purposes. All obligations issued hereunder shall constitute negotiable instruments under Chapter 3, Business & Commerce Code.

(e) Any obligations issued hereunder may be issued payable

from and secured by the pledge of all the revenues derived from the operation of the improvements and facilities of the authority, exclusive of any revenues derived from taxation or assessments, or may be payable from and secured by the pledge of only such revenues as may be derived from the operation of the improvements and facilities acquired or improved with the proceeds of the sale of such obligations, or may be payable from and secured by the pledge of a specified part of the revenues derived from the operation of the improvements and facilities of the authority, all as may be provided in the proceedings authorizing the issuance of such obligations.

(f) In the resolution or order adopted by the port commission authorizing the issuance of any obligations hereunder, the port commission may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, reserve, and other funds, and may provide for such additional covenants with respect to the obligations and the pledged revenues and the operation, maintenance, and upkeep of those improvements and facilities (the income of which is pledged), including provision for the leasing of all or part of said improvements and facilities and the use or pledge of moneys derived from leases thereon, as it may deem appropriate. Said resolution or order may also prohibit the further issuance of obligations payable from the pledged net revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said net revenues on a parity with, or subordinate to, the lien and pledge in support of the obligations being issued, subject to such conditions as are set forth in said resolution or order. Such resolution may contain a provision appropriating out of the bond proceeds an amount sufficient to pay the interest which will accrue on such obligations during the period of construction of the improvements and facilities covered by such obligations. Such resolution or order may contain other provisions and covenants, as in the opinion of the port commission may be necessary or desirable to insure marketability of the obligations, provided that such provisions and covenants are not prohibited by the Constitution of Texas or by this chapter; and the port commission may adopt and cause to be executed

any other proceedings or instruments necessary and/or convenient in the issuance of said obligations.

(g) The authority may adopt plans for the construction or refinancing of a facility, to be paid for by the issuance and sale of obligations payable from and secured by a pledge of revenues to be derived from the operation of the facility and further secured by a trust indenture, or by a deed of trust on the physical properties of such improvement; and during the time any such improvement is encumbered by the pledge of such revenues and the lien upon its physical properties, in the proceedings authorizing the bonds or the indenture, may vest its management and control in a Board of Trustees, to be named in such resolution or indenture, consisting of not less than five (5) nor more than nine (9) members. The compensation of the members of such Board of Trustees shall be fixed by such resolution or indenture, but shall never exceed one percent (1%) of the gross receipts of such improvement in any one (1) year. The terms of office of the members of such Board of Trustees, their powers and duties, including the power to fix fees and charges for the use of such improvements, and the manner of exercising same, the manner of the selection of their successors, and all matters pertaining to their duties and the organization of such Board of Trustees shall be specified in such resolution or indenture. Any such Board of Trustees may adopt bylaws regulating the procedure of the Board and fixing the duties of its officers, but the bylaws shall not contain any provision in conflict with the covenants and provisions contained in the resolution authorizing the bonds or the indenture. In all matters wherein the resolution or indenture are silent as to the powers, duties, obligations and procedure of the Board, the laws and rules governing the port commission shall control the Board of Trustees in so far as applicable. The Board may be created by the resolution or indenture, and in that event shall have all or any of the powers and authority which could be exercised by the port commission in so far as the management and operation of any such improvement is concerned. By the terms of any such resolution or indenture the port commission may make provision for later supplementing such resolution or indenture so as to vest the management and control of the facility in a Board of

Trustees having the powers, rights and duties herein conferred or imposed.

(h) Any resolution or order authorizing the issuance of obligations hereunder may provide that the revenues from which such obligations are to be paid and which are pledged to the payment of such obligations shall from month to month as the same shall accrue and be received, be set apart and placed in the interest and sinking fund, reserve fund, and other funds established in said resolution or order, and disbursed in the manner hereinabove provided.

(i) Any holder of obligations issued hereunder or of coupons originally attached thereto, may either at law or in equity, by suit, action, mandamus or other proceeding, enforce and compel performance of all duties required by this chapter to be performed by the port commission, including the making and collection of reasonable and sufficient fees or charges for the use of the improvements and facilities of the authority, the segregation of the income and revenues of such improvements and facilities, and the application of such income and revenues pursuant to the provisions of this chapter.

(j) As additional security for the payment of any obligations issued hereunder, the port commission may in its discretion have executed in favor of the holders of such obligations an indenture or deed of trust mortgaging and encumbering all or any part of the physical properties comprising the improvements and facilities the net revenues of which are pledged to the payment of such obligations, including the lands upon which said improvements and facilities are located, and may provide in such mortgage or encumbrance for a grant to any purchaser or purchasers at foreclosure sale thereunder of a franchise or lease to operate such improvements, facilities and properties for a term of not over fifty (50) years from the date of such purchase, subject to all laws regulating same then in force. Any such indenture or deed of trust may contain such terms and provisions as the port commission shall deem proper and shall be enforceable in the manner provided by the laws of Texas for the enforcement of other mortgages and encumbrances. Under any such sale ordered pursuant to the provisions of such mortgage or encumbrance, the

purchaser or purchasers at such sale, and the purchaser's or purchasers' successors or assigns, shall be vested with a permit or franchise conforming to the provisions stipulated in the indenture or deed of trust to maintain and operate the improvements, facilities and properties purchased at such sale with like powers and privileges as may theretofore have been enjoyed by the authority in the operation of said improvements, facilities and properties. The purchaser or purchasers of such improvements, facilities and properties at any such sale, and the purchaser's successors and assigns, may operate said improvements, facilities and properties as provided in the last above sentence or may at their option remove all or any part or parts of said improvements, facilities and properties for diversion to other purposes. The provisions of any statute not included in this chapter that relates to the authorization or execution of mortgages and encumbrances or the granting of franchises or leases shall not be applicable to the authorization or execution of any mortgage or encumbrance entered into pursuant to the provisions of this chapter, nor to the granting of any franchise or lease hereunder. Any obligations issued pursuant to the provisions of this chapter and additionally secured by an indenture or deed of trust as provided by this subsection, whether such obligations are notes or certificates of indebtedness or otherwise, and the record relating to their issuance, may, at the option of the port commission, be submitted to the Attorney General of Texas for the attorney general's examination and approval, as in the case of bonds, and after the Attorney General has approved the same, such obligations shall be registered by the Comptroller of Public Accounts of Texas; and after such obligations have been approved by the Attorney General and registered by the Comptroller, they shall thereafter be incontestable for any cause except for forgery or fraud.

(k) The proceeds of the sale of any obligations issued hereunder may be deposited in such bank or banks as may be agreed upon between the purchaser at such sale and the port commission, and may be deposited and paid out pursuant to such terms and conditions as may be so agreed upon, it being expressly provided that the Statutes of Texas pertaining to the deposit of funds in the

depository of the authority shall not be applicable to the deposit of the proceeds of such sale.

(l) The port commission is authorized to enter into an agreement or agreements with the purchaser or purchasers of any obligations issued hereunder under the terms of which the port commission shall agree to keep all of the improvements and facilities, the revenues of which are pledged to the payment of such obligations, insured with insurers of good standing against loss or damage by fire, water or flood, and also from any other hazards customarily insured against by private companies operating similar properties, and to carry with insurers of good standing such insurance covering the use and occupancy of such property as is customarily carried by such private companies. The cost of such insurance shall be budgeted as maintenance and operation expense and such insurance shall be carried for the benefit of the holders of such obligations.

(m) The authority, in addition to the other powers hereinabove set out, shall have general power and authority to make and enter into all contracts, leases and agreements necessary or convenient to the carrying out of any of the powers granted in this chapter, which contracts, leases or agreements may be entered into with any person, real or artificial, any corporation, municipal, public or private, and the government or governmental agency, including those of the United States and the State of Texas. Except as provided by Chapter 60, Water Code, any contracts, leases or agreements entered into pursuant hereto shall be approved by action of the port commission, and shall be executed by the chair of the port commission and attested by the executive director.

(n) Any obligations issued pursuant to the provisions of this section shall be exempt from taxation by the State of Texas or by any municipal corporation, county, or other political subdivision or taxing district of the State.

(o) The port commission shall have the power to issue obligations of the authority for the purpose of refunding any outstanding obligations payable out of the revenues of the authority and accrued interest thereon. Such refunding

obligations may be issued to refund more than one series of issues of outstanding obligations and combine the pledges for the outstanding obligations for the security of the refunding obligations, and such refunding obligations may be secured by other and additional revenues, provided that such refunding will not impair the contract rights of the holders of any of the outstanding obligations which are not to be refunded.

(o-1) Such refunding obligations shall be authorized, shall be executed, and shall mature as is provided herein for original obligations, and shall bear interest at the same or lower rate than that of the obligations refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Refunding bonds issued hereunder shall be approved by the Attorney General of Texas as in the case of other bonds issued hereunder, and shall be registered by the Comptroller of Public Accounts upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution or order authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their option or maturity date, and the Comptroller shall register them without the surrender and cancellation of the original bonds. The port commission may combine refunding bonds and new bonds in one issue, in which event the provisions of this subsection and Subsection (o) shall apply to those bonds of the combined issue which are designated in the resolution or order as the refunding bonds.

(p) After any bonds have been authorized by the authority hereunder, such bonds and the record relating to their issuance shall be submitted to the Attorney General of Texas for his examination as to the validity thereof, and after the Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of Texas. After such bonds have been approved by the Attorney General and registered by the Comptroller, they shall thereafter be incontestable for any cause except for forgery or fraud.

(q) All bonds issued hereunder shall be and are hereby declared to be, and to have all the qualifications of, negotiable instruments under Chapter 3, Business & Commerce Code, and all such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, for State funds and retirement system funds (without limiting the generalization of the foregoing, including the Permanent School Fund of Texas, and funds of retirement systems created under the Constitution and laws of the State of Texas), and for the sinking funds of cities, towns, villages, counties, school districts, or other governmental agencies, political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other governmental agencies, political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

(r) This Section, without reference to other Statutes of the State of Texas, shall constitute full authority for the authorization and issuance of obligations hereunder and for the accomplishment of all things herein authorized to be done, and no proceedings relating to the authorization or issuance of such obligations or the doing of such things shall be necessary except such as are herein required, and no provisions of the Laws of the State of Texas pertinent to the authorization or issuance of obligations, the operation and maintenance of ports, canals and waterways, the granting of franchise, permits, or leases, the right to elections or referendum petitions, shall in anywise impede or restrict the carrying out of the acts authorized to be done hereunder or acts done pursuant hereto.

Transferred, redesignated and amended from Local Water Laws, Section 1, Chapter 117, 55R by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. 1642), Sec. 4, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 758 (S.B. [1864](#)), Sec. 3, eff. June 12, 2017.

Acts 2017, 85th Leg., R.S., Ch. 758 (S.B. [1864](#)), Sec. 4, eff. June 12, 2017.

Sec. 5007.007. CONVERSION OF AUTHORITY AND TAX SUPPORTED OBLIGATIONS; CERTAIN POWERS AND DUTIES; ELECTIONS; REFUNDING BONDS; MAINTENANCE TAX; ASSESSMENT OF TAXES. (a) Effective and operative January 1, 1958, the authority is hereby converted to a navigation district operating under the provisions of Section 59 of Article XVI, Constitution of Texas, and after that date the authority will operate under Section 59 of Article XVI.

(a-1) The authority is empowered and authorized to exercise, in addition to all powers conferred by this section, all powers conferred upon the authority by the law or laws under which it was organized, and, in addition, shall have all of the powers and jurisdiction conferred upon Districts originally organized under Article XVI, Section 59, of the Constitution of the State of Texas, including Subchapters B, H, and K, Chapter [60](#), Water Code, and Sections [60.034](#) through [60.042](#), [61.075](#), [61.076](#), [61.082](#), [61.112](#), [61.115](#) through [61.117](#), [61.151](#) through [61.168](#), [61.172](#) through [61.174](#), and [61.176](#), Water Code, as amended, and Articles 8248, 8249, 8250, 8251, 8252, 8253, 8254, 8255, 8256, 8257, and 8258, Revised Civil Statutes of Texas, 1925, as amended, as well as Chapter 6, Acts, 1941, Forty-seventh Legislature, Page 8, as amended; Chapter 176, Acts, 1955, Fifty-fourth Legislature, Page 554; Chapter 217, Acts, 1949, Fifty-first Legislature, Page 407; provided, that if there is any conflict or inconsistency between said laws or any of them, and this chapter, then to the extent of conflict or inconsistency, the provisions of this chapter shall govern.

(a-2) If the authority makes a contract under which another entity performs for the authority any work in which the authority may engage under Section [5007.006](#)(a), the authority may require that a minimum of 25 percent of the work be performed by the contractor and, notwithstanding any other law to the contrary, may establish financial criteria for the surety companies that provide

payment and performance bonds.

(b) If the port commission shall from time to time determine to make further construction or improvements by the issuance of tax bonds or that additional tax bond funds are required with which to maintain the existing improvements, they shall certify to the Commissioners Court of Harris County the necessity for an additional bond issue or issues stating the amount required, the purposes of the same, the maximum rate of interest of said bonds, and the time for which they are to run. A certified copy of an order or resolution adopted by the port commission, setting forth such information, shall constitute sufficient certification in this regard. The Commissioners Court at a regular or special meeting, shall order an election to vote on the proposition of the issuance of bonds and the levy of taxes as hereinafter provided. Said order shall specify the maximum amount of bonds to be issued, their maximum maturity date, and the maximum rate of interest. The ballots for such election shall contain words substantially as follows: "For the issuance of bonds and levy of tax in payment thereof"; "Against the issuance of bonds and levy of tax in payment thereof"; and said ballot shall conform to the requirements of the provisions of the Constitution of Texas and all other Statutes of Texas applicable thereto. Any and all limitations, statutory or otherwise, restricting the amount of bonds that may be issued by the authority are hereby removed.

(c) When any election is held under this chapter, notice thereof shall be given for not less than thirty (30) days prior thereto, stating the time, places of holding the same, the proposition or propositions to be voted upon, and the purposes thereof, and shall contain a substantial copy of the election order. Such notices shall be posted by the County Clerk in five (5) public places in said County, one (1) of which shall be at the Courthouse door, and four (4) of which shall be posted within the limits of the authority. No other notice of election shall be necessary. The authority, being presently a county-wide district, and so long as it remains such, the regular voting or election precincts established by the Commissioners Court for county-wide elections shall be the voting or election precincts for all such

bond elections.

(d) The Commissioners Court shall canvass the returns of said election, and if a majority of those voting at the election vote in favor of the issuance of the bonds and the levy of the tax in payment thereof, then the Commissioners Court shall authorize the issuance of such bonds and levy taxes to pay the interest on and principal of such bonds, as hereinafter provided. In canvassing such returns and declaring the result of any such election, a simple resolution or order of said Commissioners Court shall be satisfactory.

(e) Bonds so authorized at an election may be issued in one or more installments, and when the port commission shall have determined the amount of bonds to be issued in a particular series or issue, the port commission shall adopt a resolution or order setting forth the amount of bonds then to be issued, and a certified copy of such resolution or order shall be furnished the Commissioners Court. Thereupon, said Commissioners Court, at a regular or special meeting, shall adopt an order authorizing and directing the issuance of bonds for the authority in the amount so certified.

(f) All tax bonds of the authority shall be issued in the name of the authority, shall be signed by the County Judge and attested by the County Clerk, and shall have the seal of the Commissioners Court impressed thereon; provided, that the order authorizing the issuance of such bonds may provide for the bonds to be signed by the facsimile signatures of said County Judge and County Clerk, either or both, and for the seal on the bonds to be a printed facsimile seal of the Commissioners Court; and provided further that the interest coupons attached to said bonds may also be executed by the facsimile signatures of said officers. The County Treasurer shall register such bonds and shall keep a record thereof, and evidence of such registration may be shown on the bonds by the manual or facsimile signature of said County Treasurer. Such bonds shall be issued in such denominations, shall be payable at such time or times not exceeding forty (40) years from their date or dates, and shall bear interest at a rate or rates not to exceed the amount allowed by law, all as may be determined by

said Commissioners Court.

(g) The port commission shall sell such bonds for the best price possible and in no event for less than their face value and accrued interest thereon. Such bonds may be sold either prior to, simultaneous with, or after the adoption of the order by the Commissioners Court authorizing the issuance of such bonds; and if such bonds are sold either prior to or simultaneous with the adoption of said order by the Commissioners Court, then such order shall contain a provision confirming the sale of such bonds. All moneys received from the sale of such bonds shall be deposited with the County Treasurer to the credit of the authority, and shall be expended only for the bond purpose and incidental expenses in connection therewith. No additional bond shall be required of the County Treasurer or of any officer or official of the authority for the handling of the bond proceeds.

(h) All such bonds, and the record of proceedings pertaining thereto, shall be submitted to the Attorney General of Texas for his examination as to the validity thereof, and after the Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller, and delivered to the purchasers, they shall thereafter be incontestable for any cause except for forgery or fraud.

(i) When bonds have been issued, the Commissioners Court shall levy and cause to be assessed and collected taxes annually sufficient to pay the interest on such bonds, to provide a sinking fund to redeem said bonds as they mature, and to pay the cost of collection of such taxes.

(j) The Commissioners Court shall have the power to issue bonds to refund outstanding bonds of the authority and accrued interest thereon, and the provisions of this Section relating to the issuance of voted bonds shall apply to the issuance of refunding bonds, except that no election therefor shall be necessary. Refunding bonds shall bear interest at the same or lower rate than the bonds to be refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Such bonds shall be approved by the Attorney

General as in the case of original bonds, and shall be registered by the Comptroller upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the order authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the bonds to be refunded are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal of the bonds to be refunded and the interest on such bonds to their option or maturity date, and the Comptroller shall register them without the surrender and cancellation of the bonds to be refunded. All refunding bonds, after they have been approved by the Attorney General and registered by the Comptroller, shall be incontestable for any cause except for forgery or fraud.

(k) The Commissioners Court may, upon the request of the port commission, invest the sinking fund created for the benefit of any bonds issued hereunder, in such county, municipal, district, or other bonds required by law to be approved by the Attorney General of Texas.

(l) The Commissioners Court shall be authorized to levy and cause to be assessed and collected for the maintenance, operation and upkeep of the authority and the facilities, properties, and improvements of the authority, whether heretofore or hereafter constructed or acquired and whether constructed or acquired under the provisions of this chapter or otherwise, an annual tax not to exceed ten cents (10¢) on each One Hundred Dollars (\$100) valuation of taxable property within the authority; provided that the levying of such tax shall be first submitted to the qualified taxpaying voters of the authority called and held as herein provided for bond elections and the proposition shall be adopted by a majority vote of those voting at the election.

(m) The Commissioners Court shall at the time of levy of taxes for County purposes each year levy and cause to be assessed and collected said maintenance tax within such voted limit of ten cents (10¢) as has been determined by the port commission.

(n) The port commission shall provide all necessary additional books for the use of the tax assessor-collector and the Clerk of the Commissioners Court of Harris County, Texas. The tax

assessor-collector of Harris County shall be charged with the assessment of all property for taxation within the authority and when ordered to do so by the Commissioners Court of Harris County shall assess all property within the authority and list the same for taxation in the books or rolls furnished the tax assessor-collector for said purposes, and return said books or rolls at the same time when the tax assessor-collector returns the other books or rolls of the State and County Taxes for correction and approval to the Commissioners Court of said County, and if said Court shall find said books or rolls correct they shall approve the same, and in all matters pertaining to the assessment of property for taxation in the authority, the tax assessor-collector and appraisal review board of said County shall be authorized to act and shall be governed by the laws of Texas for assessing and equalizing property for State and County Taxes, except as herein provided. All taxes authorized to be levied by this chapter shall be a lien upon the property upon which said taxes are assessed, and said taxes may be paid and shall mature and be paid at the time provided by the laws of this State for the payment of State and County Taxes; and all the penalties provided by the laws of this State for the nonpayment of State and County Taxes shall apply to all taxes authorized to be levied by this chapter. The tax assessor-collector of Harris County shall be charged with the assessment rolls of the authority, and is required to make collection of all taxes levied and assessed against the property in said County and promptly pay over the same to the Treasurer of the authority. The tax assessor-collector shall receive compensation for services and such compensation shall be paid as provided by law. The bond of the tax assessor-collector shall stand as security for the proper performance of the duties of the tax assessor-collector of the authority; or, if in the judgment of the port commission it be necessary, an additional bond payable to the authority may be required, and in all matters pertaining to the collection of taxes levied under the provisions of this chapter, the tax assessor-collector shall be authorized to act and shall be governed by the laws of the State of Texas for the collection of State and County Taxes, except as herein provided; and suits may be brought for the collection of said taxes and the

enforcement of the tax liens created by this chapter. It shall be the duty of the tax assessor-collector to make a certified list of all delinquent property upon which the navigation tax has not been paid, and return the same to the County Commissioners Court, which shall proceed to have the same collected by the sale of such delinquent property in the same manner, both by suit and otherwise, as now or may be provided for the sale of property for the collection of State and County Taxes; and, at the sale of any property for any delinquent tax, the port commission may become the purchasers of the same for the benefit of the authority. Should the tax assessor-collector fail or refuse to comply with the order of said Commissioners Court requiring the tax assessor-collector to assess and list for taxation all the property in the authority, or fail or refuse to give such additional bond or security as herein provided, the tax assessor-collector shall be suspended from further discharge of the tax assessor-collector's duties by the Commissioners Court of said County, and the tax assessor-collector shall be removed from office in the mode prescribed by law for the removal of county officers.

(o) The County Treasurer of Harris County shall be treasurer of the authority, and shall open an account of all moneys received by the treasurer belonging to the authority and all amounts paid out by the treasurer. The treasurer shall deposit the funds of the authority in such depository or depositories as may be designated by the port commission in the manner provided by law. Should the port commission fail or refuse to select a depository such depository shall be selected in like manner by the Commissioners Court. The treasurer shall pay out no money except upon the conditions provided for in this chapter and under other law and shall carefully preserve on file all orders for the payment of money; and, as often as required by the Commissioners Court, shall render a correct account to them of all matters pertaining to the financial condition of the authority. The treasurer shall execute a good and sufficient bond, payable to the authority in an amount to be fixed by the port commission, such bond to be conditioned for the faithful performance of the duties of the treasurer of the authority and to be approved by the port commission; provided

whenever any bonds are issued by the authority, before receiving the proceeds of sale thereof the treasurer shall execute additional good and sufficient bond payable to the port commission in an amount to be fixed by the port commission, which bond shall likewise be conditioned and approved as aforesaid, but such additional bond shall not be required after such Treasurer shall have properly disbursed the proceeds of such bond issue; and the treasurer shall be allowed such compensation for services performed as treasurer of the authority as may be determined by the port commission.

(p) The authority shall acquire, purchase, lease, maintain, repair and operate facilities and equipment for preventing, detecting, controlling, responding to, and fighting fires, explosions, and hazardous material incidents on or adjacent to the waterways, channels and turning basins within its jurisdiction, including the Houston Ship Channel, and for the protection of life and property from damage by fire, explosion, and hazardous material incidents. The authority shall promulgate and enforce ordinances, rules and regulations for the promotion of the safety of life and property on or adjacent to the waterways, channels and turning basins within its jurisdiction, including the Houston Ship Channel, from damages by fire, explosion, and hazardous material incidents in the manner provided by Subchapter D, Chapter 60, Water Code. The powers and functions herein authorized may be exercised both within and without the corporate limits of any city, town or village situated within the boundaries of the authority. This chapter shall be cumulative of all other laws on the subject but in the event of conflict between this chapter and any law of this state or any charter provision or ordinance of any such city, town or village relating to the subject matter of this chapter, the provisions of this chapter shall control.

(q) The authority is authorized to acquire, purchase, construct, enlarge, extend, repair, maintain, operate, or develop traffic control facilities and everything appurtenant thereto, together with all other facilities or aids incident to or useful in the operation or development of the ports and waterways within the authority's jurisdiction, including the Houston Ship Channel, or in aid of navigation and commerce thereon.

Transferred, redesignated and amended from Local Water Laws, Section 2, Chapter 117, 55R by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. 1642), Sec. 4, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 758 (S.B. 1864), Sec. 5, eff. June 12, 2017.

Sec. 5007.008. REFUNDING OF BONDS HERETOFORE VOTED. The Commissioners Court shall have the power to issue bonds of the authority to refund bonds of the authority which have heretofore been voted and which are outstanding at the time of the adoption of the refunding bond order, and no election therefor shall be necessary. Such refunding bonds shall mature serially or otherwise in not to exceed forty (40) years from their date, and shall bear interest at the same or lower rate than the bonds to be refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Such refunding bonds shall be approved by the Attorney General of Texas, and shall be registered by the Comptroller of Public Accounts of Texas upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the order authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the bonds to be refunded are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the principal of the bonds to be refunded and the interest on such bonds to their option or maturity date, and the Comptroller shall register them without the surrender and cancellation of the bonds to be refunded. All such refunding bonds, after they have been approved by the Attorney General and registered by the Comptroller, shall be incontestable for any cause except for forgery or fraud.

Transferred, redesignated and amended from Local Water Laws, Section 3, Chapter 117, 55R by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. 1642), Sec. 4, eff. September 1, 2013.

Sec. 5007.009. CONSTRUCTION OF CHAPTER. This chapter shall be cumulative of other laws, and shall be liberally construed to effectuate the purposes set forth herein. It is hereby found and

declared that all property in the authority, both real and personal, is benefited by the authority and by the improvements and facilities constructed or acquired under this chapter. It is expressly provided that nothing in this chapter shall be construed to amend, repeal, or affect the laws relating to pilots, pilotage, their appointment, or their remuneration.

Transferred, redesignated and amended from Local Water Laws, Section 4, Chapter 117, 55R by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 4, eff. September 1, 2013.

Sec. 5007.010. NAME AND TITLE CHANGES. (a) Effective August 30, 1971, the name of the Harris County Houston Ship Channel Navigation District of Harris County, Texas, is changed to the Port of Houston Authority of Harris County, Texas.

(b) Effective August 30, 1971, the name of the Board of Navigation and the Canal Commissioners of the authority is changed to the port commission, and the title of each member is port commissioner.

(c) Effective August 30, 1971, the title of general manager of the authority is changed to executive director.

Transferred, redesignated and amended from Local Water Laws, Section 5A, Chapter 117, 55R by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 4, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 758 (S.B. [1864](#)), Sec. 6, eff. June 12, 2017.

## SUBCHAPTER B. ADMINISTRATION AND PLANNING

Sec. 5007.201. CONFLICT OF LAWS. To the extent of a conflict between this subchapter and any other law, including Subchapter A, this subchapter prevails.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.202. PROVISIONS NOT APPLICABLE TO AUTHORITY. Chapter 90, Acts of the 49th Legislature, Regular

Session, 1945, and Chapter 211, Acts of the 54th Legislature, Regular Session, 1955, do not apply to the authority. Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.204. GOVERNING BODY; APPOINTMENT; TERMS; VACANCY.

(a) The authority is governed by a port commission of seven port commissioners appointed as follows:

(1) two port commissioners appointed by a majority of the city council of the City of Houston;

(2) two port commissioners appointed by a majority of the Harris County Commissioners Court;

(3) one port commissioner appointed by the city council of the City of Pasadena, who must reside in the city of Pasadena;

(4) one port commissioner appointed by a majority of the Harris County Mayors' and Councils' Association, who must be a resident of a municipality in Harris County that is located adjacent to the Houston Ship Channel and has a population of less than 100,000; and

(5) the chair of the port commission, appointed as described by Section [5007.205](#).

(b) Sections [61.159](#)(a) and (d) and [61.160](#), Water Code, apply to the authority.

(c) The port commissioners serve staggered two-year terms that expire on February 1.

(d) A person is not eligible for appointment to the port commission if the person has previously served the equivalent of at least 12 full years on the port commission.

(e) Of the two port commissioners each appointed under Subsections (a)(1) and (2), one serves a term expiring in an even-numbered year and one serves a term expiring in an odd-numbered year. The port commissioner appointed under Subsection (a)(3) serves a term expiring in an odd-numbered year. The port commissioner appointed under Subsection (a)(4) serves a term expiring in an even-numbered year.

(f) Not later than the 45th day after the date on which a

term expires or on which a vacancy begins, the appointing entity must appoint a new port commissioner. If the appointing entity fails to make the appointment before the 45th day, the office is considered an open position and the person serving in that position is ineligible for reappointment to fill the position, and:

(1) if the appointing entity is the city council of the City of Houston, the city council of the City of Pasadena, or the Harris County Mayors' and Councils' Association, the Harris County Commissioners Court shall appoint a port commissioner to fill the position; or

(2) if the appointing entity is the Harris County Commissioners Court, the city council of the City of Houston shall appoint a port commissioner to fill the position.

(g) If a second appointing entity under Subsection (f)(1) or (2) fails to make an appointment before the 90th day after the date on which the term expires or the vacancy begins:

(1) the office is considered an open position and the person serving in that position is ineligible for reappointment to fill the position; and

(2) the governor shall appoint a port commissioner to fill the position with the advice and consent of the senate.

(h) If a vacancy occurs through death, resignation, or other reason, the vacancy shall be filled in the manner provided for making the original appointment and in accordance with Subsections (f) and (g).

(i) The governor may appoint a port commissioner under Subsection (g) only if the appointing entity under Subsection (f) fails to make an appointment within the period described by this section, and any subsequent appointment must be made by the appropriate appointing entity.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.205. APPOINTMENT OF CHAIR; TERM. (a) The City of Houston mayor and city council and the Harris County Commissioners Court shall jointly appoint the chair of the port commission in January of odd-numbered years. The term of the chair expires on

February 1 of each odd-numbered year.

(b) If the mayor, city council, and commissioners court do not make an appointment within the period specified by this section, the governor shall appoint the chair of the port commission with the advice and consent of the senate. The governor may appoint the chair only if the original appointing entities fail to make an appointment within the period described by this section, and any subsequent appointment must be made by the appointing entities.

(c) The person appointed as the chair of the port commission must comply with the qualifications described by Section 61.160, Water Code.

(d) On the second Monday of January in each odd-numbered year, the City of Houston mayor and city council, the Harris County commissioners, and the Harris County judge shall hold a joint meeting to appoint the chair of the port commission at the headquarters of the authority.

(e) In the meeting held under Subsection (d):

(1) each city council member and the mayor shall have one vote; and

(2) each county commissioner and the county judge shall have the mixed-fraction number of votes equal to the sum of the number of city council members plus the mayor divided by the sum of the number of county commissioners plus the county judge.

(f) The presence of individuals with a majority of the total potential votes is required to establish a quorum at the meeting. A separate quorum from each group, representing the city and the county, is not required. The chair must be appointed by at least a majority of the total potential votes, in any combination.

(g) In the event of a tie, the city council, mayor, county commissioners, and county judge have three calendar days to deliberate, convene a meeting, and revote. The period may be extended to allow for compliance with Chapter 551, Government Code, as it applies to the notice requirement for an open meeting. If a second vote results in a tie:

(1) the office of the chair of the port commission is considered an open position and the person serving as the chair is

not eligible for reappointment to fill the position; and

(2) the governor shall appoint the chair as provided by Subsection (b).

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.206. NAVIGATION BOARD. The navigation board of the authority is composed of the county judge and county commissioners of Harris County, the mayor and city council members of the City of Houston, and the members of the Harris County Mayors' and Councils' Association.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.2065. SERVICE ON FREIGHT RAIL DISTRICT BOARD. The chair of the port commission may designate an officer or employee of the authority to serve on behalf of the chair as a director of a freight rail district created under Section [171.052](#), Transportation Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 758 (S.B. [1864](#)), Sec. 7, eff. June 12, 2017.

Sec. 5007.207. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a port commissioner and may not be an authority employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in a field relating to maritime commerce, the members of which are regulated by the

authority; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in a field relating to maritime commerce, the members of which are regulated by the authority.

(c) A person may not be a port commissioner or act as the general counsel to the port commission or the authority if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the authority.

(d) A person may not be a port commissioner if the person or an individual related to the person in the first degree of consanguinity or affinity, as determined under Chapter 573, Government Code:

(1) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the authority; or

(2) uses or receives a substantial amount of tangible goods, services, or money from the authority other than compensation or reimbursement authorized by law for port commission membership, attendance, or expenses.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. 1642), Sec. 5, eff. September 1, 2013.

Sec. 5007.208. FILING OF FINANCIAL STATEMENT BY PORT COMMISSIONERS. (a) A port commissioner shall file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, with:

(1) the authority; and

(2) the Texas Ethics Commission.

(b) Subchapter B, Chapter 572, Government Code:

(1) applies to a port commissioner subject to this section as if the port commissioner were a state officer; and

(2) governs the contents of, timeliness of filing, public inspection of, and civil and criminal penalties relating to a statement filed under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.209. PORT COMMISSIONER TRAINING. (a) A person who is appointed to and qualifies for office as a port commissioner may not vote, deliberate, or be counted as a port commissioner in attendance at a meeting of the port commission until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the legislation that created the authority;
- (2) the programs, functions, policies, rules, and budget of the authority;
- (3) the results of the most recent formal audit of the authority;
- (4) the requirements of laws relating to open meetings, public information, administrative procedure, financial disclosure, and conflicts of interest; and
- (5) any applicable ethics policies adopted by the port commission or the Texas Ethics Commission.

(c) A person appointed to the port commission is entitled to reimbursement for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1346 (S.B. [1915](#)), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1347 (S.B. [2223](#)), Sec. 1, eff. September 1, 2019.

Sec. 5007.210. REMOVAL FROM OFFICE. (a) It is a ground for removal from the port commission that a port commissioner:

- (1) does not have at the time of taking office the qualifications required by Section [5007.204](#);
- (2) does not maintain during service on the port

commission the qualifications required by Section [5007.204](#);

(3) is ineligible for membership under Section [5007.207](#);

(4) cannot, because of illness or disability, discharge the port commissioner's duties for a substantial part of the port commissioner's term;

(5) commits malfeasance in office; or

(6) is absent from more than half of the regularly scheduled port commission meetings that the port commissioner is eligible to attend during a calendar year without an excuse approved by a majority vote of the port commission.

(b) The validity of an action of the port commission is not affected by the fact that it is taken when a ground for removal of a port commissioner exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the chair of the port commission of the potential ground. The chair shall then notify the entity that appointed the port commissioner that a potential ground for removal exists. If the potential ground for removal involves the chair, the executive director shall notify the next highest ranking officer of the port commission, who shall then notify the entities who appointed the chair that a potential ground for removal exists.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.211. PORT COMMISSION POLICIES. (a) The port commission shall adopt detailed policies that document its governance practices and make those policies available on the authority's website.

(b) The port commission shall develop and implement policies that clearly separate the policymaking responsibilities of the port commission and the management responsibilities of the executive director and the other employees of the authority.

(c) The port commission shall distribute a copy of all policies adopted under this subchapter to each port commissioner and authority employee not later than the third business day after

the date the person begins employment or a term as port commissioner.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.212. EXECUTIVE DIRECTOR. (a) The port commission shall appoint an executive director of the authority. The port commission shall prescribe the duties and compensation of the executive director. The port commission may delegate to the executive director full authority to manage and operate the affairs of the authority subject only to orders of the port commission.

(b) The port commission shall delegate to the executive director the authority to employ all persons necessary for the proper handling of the business and operation of the authority and to determine the compensation to be paid to all employees, other than the executive director or the chief audit executive employed under Section [5007.226](#)(c).

(c) The executive director shall execute a bond for \$10,000 conditioned on the faithful performance of the executive director's duties and other conditions as required by the authority. The bond must be recorded in a record kept for that purpose in the authority's office.

(d) The port commission by general or special rule, regulation, order, resolution, or other direction may authorize the executive director or another person authorized to act instead of the executive director to perform any act on behalf of the port commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.213. STANDARDS OF CONDUCT; ETHICS POLICY. (a) A port commissioner or an authority employee should not:

(1) accept or solicit any gift, favor, or service that might reasonably tend to influence the port commissioner or employee in the discharge of official duties or that the port commissioner or employee knows or should know is being offered with the intent to influence the port commissioner's or employee's

official conduct;

(2) accept other employment or engage in a business or professional activity that the port commissioner or employee might reasonably expect would require or induce the port commissioner or employee to disclose confidential information acquired by reason of the official position;

(3) accept other employment or compensation that could reasonably be expected to impair the port commissioner's or employee's independence of judgment in the performance of the port commissioner's or employee's official duties;

(4) make personal investments that could reasonably be expected to create a substantial conflict between the port commissioner's or employee's private interest and the public interest; or

(5) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the port commissioner's or employee's official powers or performed the port commissioner's or employee's official duties in favor of another.

(b) The port commission shall adopt a written ethics policy for the port commissioners and authority employees consistent with the standards prescribed by Subsection (a).

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.214. ETHICS AFFIRMATION AND HOTLINE. (a) A port commissioner or an authority employee shall annually affirm the port commissioner's or employee's adherence to the ethics policy adopted under Section [5007.213](#).

(b) The port commission shall establish and operate a telephone hotline that enables a person to call the hotline number, anonymously or not anonymously, to report alleged fraud, waste, or abuse or an alleged violation of the ethics policy adopted under Section [5007.213](#).

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.215. COMPLAINTS. (a) The authority shall

maintain a system to promptly and efficiently act on complaints filed with the authority. The authority shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The authority shall make information available to the public, including on the authority's website, describing its procedures for complaint investigation and resolution.

(c) The authority shall periodically notify the complaint parties of the status of the complaint until final disposition.

(d) The authority shall develop a standard form and a procedure for submitting complaints to the authority and shall make that form and procedure available on the authority's website. The authority shall also make available on its website clear information about what a person making a complaint should expect after the complaint is filed, including timelines for response and resolution.

(e) The authority shall compile detailed statistics and analyze trends on complaint information, including:

- (1) the nature of the complaints;
- (2) the disposition of the complaints; and
- (3) the length of time to resolve complaints.

(f) Authority staff shall report the information compiled under Subsection (e) to senior management as designated by the executive director and the port commission on a regular basis.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.216. PUBLIC INVOLVEMENT POLICY. The port commission shall develop and implement a policy that provides a structure for public involvement. The policy must include:

(1) a clear and detailed description of how the authority will seek to actively engage stakeholders;

(2) specific actions the authority will take to meet or exceed the requirements of laws related to open meetings; and

(3) strategies that include use of the authority's website to make available clear, updated information on issues of

public concern.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. 1642), Sec. 5, eff. September 1, 2013.

Sec. 5007.217. WHISTLEBLOWER POLICY. The port commission shall adopt a whistleblower policy consistent with Chapter 554, Government Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. 1642), Sec. 5, eff. September 1, 2013.

Sec. 5007.218. EXPENSE POLICY. The port commission shall adopt an expense policy that includes:

(1) spending guidelines for meals, lodging, and entertainment, including a process for handling and documenting exceptions to the guidelines if business needs require an exception;

(2) clear expense report protocols, including:

(A) the use of cash advances;

(B) the separation of reports from port commissioners and authority employees; and

(C) clear lines of accountability for the submission of reports; and

(3) a prohibition on the use of authority funds for a meal for a port commissioner or an authority employee that is not part of:

(A) approved travel for authority business;

(B) a ceremonial or business-related function with outside parties;

(C) an employee training program; or

(D) an event with the purpose of employee recognition, seasonal celebration, or building morale.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. 1642), Sec. 5, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 758 (S.B. 1864), Sec. 8, eff. June 12, 2017.

Sec. 5007.219. PROMOTION AND DEVELOPMENT FUND. (a) In this section, "promotion and development fund" means a fund created and managed under Subchapter H, Chapter 60, Water Code.

(b) The port commission shall adopt clear, complete policy and procedures to govern the use of the promotion and development fund. The policy and procedures must include:

(1) provisions limiting acceptable uses of promotion and development fund money to uses with a direct tie to the mission of the authority;

(2) a consistent budget process;

(3) a process for requesting sponsorship funds by port commissioners, authority employees, and outside groups;

(4) an approval process for each type of expenditure from the promotion and development fund, including:

(A) the level of approval or notification required for authority employees, applicable task forces, and the port commission; and

(B) a requirement that each approved expenditure must include a description of:

(i) the expected impact of the expenditure; and

(ii) how the expenditure is consistent with the strategic direction for promotion and development fund money as adopted by the port commission;

(5) a procedure for handling exceptions to the policy, including a requirement that an exception be subject to the same reporting requirements as other approved expenditures from the promotion and development fund;

(6) a provision for evaluating the policy's effectiveness and having the port commission adopt updates to the policy as needed at regularly scheduled public meetings; and

(7) requirements for regular tracking of all expenditures from the promotion and development fund and reporting of the expenditures to the port commission and to the public by making the reports available on the authority's website.

(c) A report described by Subsection (b)(7) must include detailed information about:

- (1) travel by port commissioners;
- (2) special uses of the authority's resources, including the use of any public tour vessels and the associated costs, sorted by authority division;
- (3) sponsorship and similar spending; and
- (4) total expenditures from the promotion and development fund, including year-to-date summary information by category of expenditure.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. 1642), Sec. 5, eff. September 1, 2013.

Sec. 5007.220. PLANNING DEFINITIONS. For the purposes of Sections 5007.221, 5007.222, 5007.224, and 5007.225:

- (1) "Long-range plan" means the plan developed under Section 5007.221.
- (2) "Mid-range plan" means the plan developed under Section 5007.222.
- (3) "One-year capital plan" means the plan developed under Section 5007.224.
- (4) "Staff" means one or more authority employees and does not include a port commissioner.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. 1642), Sec. 5, eff. September 1, 2013.

Sec. 5007.221. LONG-RANGE PLANNING. (a) Appropriate staff shall develop a long-range plan containing:

- (1) a mission and values statement;
- (2) an assessment of the authority's state as of the date of the plan;
- (3) an assessment of the projected operating environment over the course of the long-range plan;
- (4) a discussion of high-level goals, strategies, and priorities;
- (5) a scheme for ongoing evaluation of progress toward stated goals, including performance measures; and
- (6) other strategic planning elements, as considered appropriate by the staff or port commission.

(b) The port commission shall establish a planning horizon of at least 10 years for the long-range plan.

(c) The staff shall identify and collaborate with stakeholders to obtain input on the long-range plan.

(d) The port commission may amend and shall adopt the plan and any updates to the plan in an open meeting.

(e) The staff shall provide annual progress updates according to performance measures developed under Subsection (a)(5). The staff shall present a report on the annual progress to the port commission.

(f) The staff shall complete a comprehensive reevaluation and update of the long-range plan at least every five years, or more frequently if the port commission finds that conditions warrant a more frequent update.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.222. MID-RANGE PLANNING. (a) Appropriate staff shall develop a mid-range plan consistent with the long-range plan. The mid-range plan must include:

(1) a five-year financial forecast addressing the financial needs and financing options of the authority for the five-year period, with information about the relative cost of the options;

(2) a five-year capital plan, including a preliminary analysis and prioritization of projects; and

(3) other detailed action plans as the port commission or staff finds necessary to achieve the goals of the mid-range plan or long-range plan.

(b) The staff shall present the mid-range plan in an open meeting of the port commission. The port commission is not required to adopt a mid-range plan.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.223. BUDGET. The port commission shall annually adopt a budget for the authority in an open meeting.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.224. ONE-YEAR CAPITAL PLAN. (a) Appropriate staff shall develop a one-year capital plan, including associated financing, that is integrated with the budget of the authority.

(b) The port commission shall adopt the one-year capital plan in an open meeting.

(c) The port commission shall establish and document a detailed process for the analysis and approval of a project proposed for inclusion in the one-year capital plan. A project may be included in the one-year capital plan only if it is approved in accordance with that process.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.225. PUBLIC ACCESS TO BUDGET AND PLANNING INFORMATION. (a) The port commission shall post on the authority's website and otherwise make available to the public the authority's most recently adopted budget and any plan adopted by the port commission at an open meeting, including the long-range plan, mid-range plan, one-year capital plan, and updates to that budget or those plans.

(b) The port commission may redact sensitive business information from the plans made publicly available under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.226. INTERNAL AUDIT. (a) The port commission shall establish an internal audit procedure consistent with the purposes, duties, and standards for state agency internal audit procedures under Chapter [2102](#), Government Code.

(b) The port commission shall create an internal audit task force consisting of port commissioners.

(c) The port commission only shall hire and may fire or suspend a chief audit executive, who shall report to the internal

audit task force. The chief audit executive shall coordinate all audit activity, including:

- (1) compliance reviews;
- (2) reviews of internal controls;
- (3) audits by the county auditor of Harris County;
- (4) contracted audits;
- (5) performance reviews; and
- (6) investigations of alleged fraud, waste, abuse, or ethics violations reported under Section [5007.214\(b\)](#).

(d) The chief audit executive shall monitor the authority's compliance with statutory requirements governing use of the promotion and development fund, as defined by Section [5007.219\(a\)](#).

(e) The port commission shall create, approve, and make available on the authority's website a risk-based annual audit plan.

(f) The port commission shall make internal audits available on request to:

- (1) the county auditor of Harris County; and
- (2) any entity with the authority to appoint a port commissioner.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. [1642](#)), Sec. 5, eff. September 1, 2013.

Sec. 5007.227. HARRIS COUNTY AUDITOR. (a) The county auditor of Harris County may conduct a financial audit of the authority as part of an annual, county-wide risk assessment and audit plan. An audit performed under this subsection must be conducted in accordance with generally accepted auditing standards as prescribed by:

- (1) the American Institute of Certified Public Accountants;
- (2) the Governmental Accounting Standards Board;
- (3) the United States Government Accountability Office; or
- (4) any other professionally recognized entity that prescribes auditing standards.

(b) The county auditor of Harris County may not conduct an

operational audit of the authority or any audit that exceeds the scope of the audit described in Subsection (a).

(c) The authority shall reimburse the county auditor of Harris County for an audit conducted under Subsection (a), according to standard rates agreed to by the authority and the county before an audit is scheduled or performed. The rates shall be updated periodically.

(d) Sections 60.204(c) and 61.174(b) and (c), Water Code, do not apply to the authority.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. 1642), Sec. 5, eff. September 1, 2013.

Sec. 5007.228. ACCEPTANCE OF GIFTS. (a) In this section, "gift" means a gift, grant, donation, or bequest of money or property accepted under Section 60.124, Water Code, that has a value of \$500 or more.

(b) The authority may accept a gift only if, not later than the 90th day after the date the port commission receives the gift, the port commission, in an open meeting, acknowledges the acceptance of the gift.

(c) For a gift accepted under Subsection (b), the authority must record the name of the donor, a description of the gift, and a statement of the purpose of the gift in the minutes of the port commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 139 (H.B. 1642), Sec. 5, eff. September 1, 2013.