

The Code of Alabama 1975

Title 33 NAVIGATION AND WATERCOURSES.

Chapter 2 DEVELOPMENT OF DOCKS AND OTHER FACILITIES ALONG INLAND WATERWAYS.

Article 1 1957 Provisions for Facilities Along Inland Waterways.

Section 33-2-1

Authority of state and State Docks Department generally.

In addition to the authority granted to the State of Alabama by the provisions of Section 93 of the Constitution of Alabama as amended, and any other laws of this state, the state is hereby expressly authorized and empowered to engage in works of internal improvement by promoting, developing, constructing, maintaining and operating along navigable rivers, streams or waterways now or hereafter existing within this state, all manner of dock facilities, elevators, compresses, warehouses, water and rail terminals and other structures and facilities and improvements of every kind needful for the convenient use of same, in aid of commerce and use of the waterways of this state; provided, that all such works, improvements and facilities shall always be and remain under the management and control of the Alabama State Docks Department. The Alabama State Docks Department shall be the agency of the state under which the state shall accomplish all the purposes of this article and the acquisition, construction, maintenance and operation of all the improvements and facilities acquired or constructed or enlarged pursuant to the provisions of this article.

(Acts 1957, No. 311, p. 408, §1.)

Section 33-2-2

Maximum cost of development.

The entire cost to the state of engaging in the work or development authorized by this article shall not exceed in aggregate the principal sum of \$3,000,000.00.

(Acts 1957, No. 311, p. 408, §2.)

Section 33-2-3

Acquisition, construction, maintenance, operation, etc., of facilities; plans and survey; limitation upon right of eminent domain.

Through the Alabama State Docks Department, the state, in engaging in the works of internal improvements authorized by this article, shall have the power to acquire, purchase, install, lease, construct, own, hold, maintain, equip, control and operate along navigable rivers, streams or waterways and at river ports or landings along navigable rivers, streams or waterways now or hereafter existing within the state, wharves, piers, docks, quays, grain elevators, cotton compresses, warehouses, improvements and water and rail terminals and such structures and facilities as may be needful for convenient use of the same, in aid of commerce and use of navigable waterways of the state, to the fullest

extent practical and as the State Docks Department shall deem desirable or proper. This authority shall include dredging of approaches to any facilities acquired, erected, maintained or operated pursuant to this article; provided, that before the State Docks Department shall exercise the authority invested in it hereby, the director of state docks shall first submit plans, including estimates of cost, prepared by competent engineers or architects, and a survey made by competent independent and professional engineers showing the economic feasibility of exercising its authority, to the Governor for his approval or disapproval in reference thereto, and, as to dredging, the state docks director shall likewise confer with proper United States authorities; provided, that the State Docks Department shall have no authority to condemn or acquire by exercise of the right of eminent domain any privately owned ports, terminal, docks or loading facilities located on any navigable river or stream except at the Port of Mobile.

(Acts 1957, No. 311, p. 408, §3.)

Section 33-2-4

Powers and duties of department under article cumulative.

All administration, supervision, authority and responsibility under this article and operations conducted hereunder, vested in the Alabama State Docks Department, shall be in addition to all power, duties and authority conferred on such department by this title or conferred pursuant to sections 33-1-1, 33-1-11 and 31-1-12, the intent of this article being that the authority, powers, responsibilities and duties imposed by this article shall be in addition to and supplemental to the powers, authority, responsibilities and duties conferred or imposed on said department by any other laws of this state.

(Acts 1957, No. 311, p. 408, §4.)

Section 33-2-5

Power of eminent domain generally.

There is hereby vested in the State Docks Department power of eminent domain in carrying out the provisions of this article, which power shall apply not only as to all property of private persons and corporations, except as limited in Section 33-2-3, but also as to property already devoted to public use; provided, that the State Docks Department shall have no authority to acquire without consent of the owner thereof by condemnation any property now operated and used for port purposes or such purposes as the State Docks Department is authorized to acquire and use property for, unless the necessity therefor be alleged and proved.

(Acts 1957, No. 311, p. 408, §5.)

Section 33-2-6

How property and rights-of-way may be acquired; eminent domain proceedings.

In acquiring rights-of-way and property necessary for the construction of railroads and structures, including railroad crossings, wharves, piers, elevators, compresses, warehouses, improvements and riparian and littoral terminals and structures and convenient approaches thereto in furtherance of the purposes of this article, the Alabama State Docks Department shall have the power to acquire same by

gift, lease, purchase, negotiation or condemnation, and, in condemning property, it may proceed in any manner authorized by the general laws of the state for proceedings by any county, municipality or corporation organized under the laws of this state to acquire property by condemnation, subject to the restrictions contained in this article.

(Acts 1957, No. 311, p. 408, §6.)

Section 33-2-7

Department may contract current indebtedness.

In any operations conducted under this article, the State Docks Department may contract such current indebtedness as is necessarily incident to the progress of the work in accordance with the terms of this article.

(Acts 1957, No. 311, p. 408, §7.)

Section 33-2-8

General provisions relative to inland waterways improvement bonds and temporary loans.

In order to provide funds for the purposes herein authorized, the Governor is hereby empowered to execute, with the concurrence of the director of state docks, and to sell the state's bonds in such amounts, not exceeding in the aggregate the sum of \$3,000,000.00 as may be necessary for said purposes, all under and subject to the following provisions: Said bonds shall be appropriately designated as inland waterways improvement bonds of the state. The bonds may be issued from time to time in one or more series and the bonds of each series shall be payable in substantially equal annual installments of principal and interest at such times as may be designated by the State Docks Department with approval of the Governor; provided, that the first installment of principal of the bonds of each series must mature not later than 10 years from the date of such series and the last installment of principal of the bonds of any series must mature not later than 50 years from such date; provided, that the determination by the State Docks Department that the requirements of this sentence have been complied with shall be conclusive of such compliances, and the purchasers of any of the bonds and all subsequent holders thereof shall be fully protected by such determination. Such bonds must be sold only at public sale, either on sealed bids or at public auction, to the bidder whose bid reflects the lowest net interest cost for the bonds being sold, computed to their respective maturities; provided, that if no bid acceptable to the Governor is received, all bids may be rejected; notice of each such sale shall be given by publication in either a financial journal or a financial newspaper published in the City of New York, New York and also by publication in a daily newspaper published in the State of Alabama, each of which notices must be published at least one time not less than 10 days prior to the date fixed for the sale. Such bonds shall be in denominations of \$1,000.00, and multiples of \$1,000.00, the number of each denomination in each lot of bonds executed to be determined by the State Docks Department with the consent of the Governor. The bonds shall be signed in the name of the state by the Governor, and the Great Seal of the State, or a facsimile thereof, shall be affixed thereto or engraved, lithographed or imprinted thereon and attested by the signature of the Secretary of State; provided, that the signature on any of the bonds of one but not both of said officials may be a facsimile signature. Any interest coupons applicable to the bonds and evidencing the payment of interest thereon shall be signed with the facsimile signature of the State Treasurer imprinted thereon. The bonds

may be in either bearer or registered form either as to principal or interest or both, and the State Docks Department, with the approval of the Governor, is authorized to provide terms and conditions under which any of the bonds may be exchanged for like bonds of other denominations and may be converted from bearer bonds into registered bonds, either as to principal or interest or both, and converted from registered bonds into bearer bonds. The bonds of each series may, in the order under which they are issued, be made subject to redemption at the option of the State Docks Department on such dates and on such conditions and upon payment of such premium as may be prescribed in the order under which they are issued; provided, that each series of bonds having an installment of principal maturing more than 10 years after the date thereof shall be made subject to redemption prior to maturity, at the option of the State Docks Department, at the end of the term year following their date and semiannually thereafter, as a whole or in part in the inverse order of the numbers of the bonds of that series; and, provided further, that any redemption price required to be paid in order to effect any redemption of bonds prior to maturity shall not exceed the face value of each bond redeemed plus accrued interest thereon to the date fixed for redemption and a premium equal to one year's interest on such bond. The bonds of each series shall bear interest at such rate or rates as may be fixed at the time of the sale thereof and shall be sold at not less than the face value thereof plus accrued interest thereon to the date of their delivery. The State Treasurer shall keep a complete record of all bonds issued under the authority of this article. Bonds issued in coupon form may be exchanged for fully registered bonds or bonds registered as to principal only. Coupon bonds and registered bonds shall be interchangeable. Upon issuance of a coupon bond for a registered bond, all matured and unearned coupons on said bond shall be by the State Treasurer first clipped from said bond and then cancelled. The Governor is authorized to prescribe regulations for the registration of bonds and the interchange of registered and coupon bonds and to fix reasonable charges for registration of bonds. The director of state docks, with the approval of the Governor, and subject to the requirements of this article, is authorized to prescribe the exact form in which bonds shall be issued and details as to terms. The State Treasurer shall keep a record of all registered bonds, including names and addresses of the respective holders thereof. Registered bonds may be transferred only by an appropriate change of registration in such manner and form as may be prescribed by the director of state docks and approved by the Governor. Interest on all registered bonds shall be payable by check or cash by the State Treasurer mailed to the address shown by the registration records. Interest on all coupon bonds and principal of all bonds shall be made payable in lawful currency of the United States at the state treasury or such other place or places as may be selected and named by the director of state docks with the approval of the Governor. Said bonds shall be emitted and sold only when and as funds are needed for the carrying out and accomplishing of a particular improvement or plan which has been submitted to and approved by the Governor as herein provided, or for the payment of temporary loans and interest under the provisions of this article. Each sale of bonds hereunder shall be for such amount as is reasonably necessary to pay interest and temporary loans as herein provided and to cover the cost of carrying out the plan or plans theretofore submitted to and approved by the Governor, it being intended to so provide that the improvement and development will be accomplished in such units or installments as the Alabama State Docks Department, with the approval of the Governor, shall allot, and to further provide that the obligations of the state hereby authorized shall be emitted only when necessary to supply the funds required for said purposes. The act of the State Docks Department and the Governor in offering any bonds for sale shall be conclusive evidence that the funds to be derived from the bond proceeds are actually needed at the time for the purposes for which bonds are herein authorized to be issued and that the proceeds of such bonds are intended only for the work of internal improvement in promoting, developing,

constructing, maintaining and operating facilities along inland waterways of the State of Alabama pursuant to the provisions of the article or for payment of temporary loans and interest pursuant to the provisions of this article. Each issue of bonds shall be designated by a distinctive serial number, letter or other designation. Proceeds of all of said bonds issued and sold under the provisions hereof shall be paid into the State Treasury and kept by the State Treasurer in a separate account and in a separate fund and paid over to the Secretary-Treasurer of the State Docks Department from time to time in such amounts as shall be directed by the Governor as in his judgment the purposes of this article may require, and the money so paid over to the Secretary-Treasurer of the State Docks Department shall be held and used only for the accomplishment of the purposes of this article. The state, at the request of the State Docks Department and on approval by the Governor, may borrow from time to time such sums of money as the Governor may find to be immediately necessary in the general operation of facilities acquired pursuant to this article or in making the developments or improvements hereby authorized or for payment of interest on outstanding bonds or other indebtedness lawfully incurred; and the State Docks Department, subject to the approval of the Governor and acting by and under the director and secretary-treasurer, is hereby empowered to execute notes or like obligations of the state in its own name for all such sums so borrowed. No loans thus obtained shall be for more than six months or bear interest at a greater rate than six percent per annum, but they may be renewed from time to time as may be necessary. The proceeds of all loans so obtained shall be paid to the Secretary-Treasurer of the State Docks Department and be held and used only for the accomplishment of the purposes of this article. All temporary loans so obtained shall be repaid from and out of the proceeds of the next sale of bonds hereby authorized or other funds in the hands of the State Docks Department which may be available. At no time shall the amount of outstanding obligations of the state issued hereunder, including bonds, notes or other evidences of debt, exceed in the aggregate \$3,000,000.00. The Secretary-Treasurer of the State Docks Department shall deposit such funds as are received by him as Secretary-Treasurer from time to time in such bank or banks as may be designated by the State Docks Department and approved by the Governor. The State Docks Department shall require that any bank or banks receiving such deposits shall secure the same by deposit of inland waterway improvement bonds authorized by this article or by state bonds of the State of Alabama or United States government securities. The State Docks Department and the Governor shall, if possible, require interest to be paid on such deposits carried in any bank or banks. The aggregate principal of all temporary loans made under the provisions of the article and outstanding at any one time shall not exceed \$200,000.00.

(Acts 1957, No. 311, p. 408, §8.)

Section 33-2-9

Application of proceeds of facilities; payment of deficiency where proceeds are insufficient to cover expenses.

The proceeds of the handling and operation of improvements and facilities constructed pursuant to this article shall be applied as follows: All expenses of carrying out the purposes of this article shall be paid from said proceeds. Not less than 30 days before each semiannual date upon which interest matures on the bonds hereby authorized, or any installment of principal matures, the Secretary-Treasurer of the State Docks Department shall pay to the state treasury from receipts of facilities constructed pursuant to this article an amount sufficient to cover such installment of interest or principal, and therefrom the State

Treasurer shall pay such interest or principal. If the receipts of the State Docks Department from facilities constructed pursuant to this article are insufficient to cover any expenses herein provided for or any installment of interest or principal, the deficiency may be paid from the proceeds of any sale of bonds hereby authorized; provided, that such use of the said proceeds shall be limited to the payment of expenses and interest on bonds for only the first three years after completion and putting into operation of the unit or units or improvement or improvements acquired with the proceeds of such bonds, or the amount necessary for the payment of such interest may be obtained from temporary loans negotiated therefor as hereinbefore authorized. It is intended to so provide that all of the revenues and income arising from operations authorized by this article and from all property acquired under the provisions of this article shall be devoted to the payment of expenses of such operation, to the payment of interest upon the bonds issued pursuant to this article, and other payment of principal of such bonds as they respectively mature, thus relieving other revenues of the state docks department, or other revenues of the state, from any burden in that behalf unless the aforesaid income shall be insufficient for the purposes mentioned. The State Docks Department may retain from the moneys coming into its hands from any facility obtained pursuant to this article such amounts as may be reasonably required for operating capital for facilities and improvements constructed pursuant to this article, and all amounts so retained shall be deemed to be an operating expense within the meaning of this article.

(Acts 1957, No. 311, p. 408, §9.)

Section 33-2-10

Cost of each unit to be ascertained, etc.; sinking fund.

Immediately upon the completion of each unit of development along its inland waterway system acquired or erected pursuant to this article, the director of the Alabama State Docks Department shall ascertain the cost of such unit, which cost shall be entered in the accounts kept by the State Docks Department as a charge against capital account for that unit. After the first 12 months from the completion of each unit pursuant to this article, one half of one percent of the cost thereof, not exceeding one half of the gross income thereof during each month, shall at the end of the month be credited to an account designated "sinking fund" and shall be used from time to time only for the purpose of paying interest charges and of retiring, by repurchase, bonds issued pursuant to this article at not more than par or by paying them off as the same mature, until all bonds issued pursuant to this article shall have been retired; provided, that whenever the sinking fund thus created shall exceed the bonds outstanding plus interest charges maturing within the next 24 months, then the surplus shall be available for use in future development and improvements pursuant to this article.

(Acts 1957, No. 311, p. 408, §10.)

Section 33-2-11

Faith and credit of state pledged to payment of bonds.

For the payment of both the principal and interest of all bonds issued under the authority of this article according to their tenor, the full faith and credit of the State of Alabama is hereby pledged. If the funds supplied by the Alabama State Docks Department to the State Treasurer from the sources prescribed by this article are insufficient to fully pay at maturity any installment of interest on said bonds or to pay at

maturity the principal of said bonds, then the deficiency shall be paid by the State Treasurer from any funds in the state treasury not otherwise appropriated.

(Acts 1957, No. 311, p. 408, §11.)

Section 33-2-12

Rates and charges for use of facilities.

In order to enable the operations established under this article to earn funds to pay operating expenses and interest on the bonds and to create a sinking fund for the retirement of the bonds, the said Alabama State Docks Department shall have the right and power to fix from time to time reasonable rates of charges for services to all persons using said facilities.

(Acts 1957, No. 311, p. 408, §12.)

Section 33-2-13

Department to make reports to Legislature.

The State Docks Department shall make to each regular session of the Legislature a report showing the indebtedness of the state created under this article, the property acquired, the facilities owned, the results of the operation and such other information as may be necessary to fully advise the Legislature of the status and progress of the improvement and development hereby authorized.

(Acts 1957, No. 311, p. 408, §13.)

Section 33-2-14

Exercise of authority by Governor and department; evidence of approval and consent of Governor and department.

The Governor and the State Docks Department, respectively, are hereby directed and required to exercise the power and authority by this article conferred upon them, respectively, to whatever extent is necessary to the accomplishment of the improvement and development hereby authorized. Any approval or consent by the Governor required by this article shall be sufficiently evidenced by a certificate to that effect signed by the Governor and filed in the office of the State Treasurer, and approval or consent by the State Docks Department shall be sufficiently shown by a certificate signed by the director of state docks and attested by the Secretary-Treasurer of the Alabama State Docks Department and filed in the office of the State Treasurer.

(Acts 1957, No. 311, p. 408, §14.)

Section 33-2-15

No prior indebtedness to be paid from funds received.

No indebtedness heretofore incurred by the Alabama State Docks Department shall be paid out of any of the funds received by the department pursuant to this article.

(Acts 1957, No. 311, p. 408, §15.)

Section 33-2-16

Revocation and suspension of licenses to occupy state property.

Any license heretofore granted by the State of Alabama, either expressly or by implication permitting the upland owner to occupy any part of the space between the high-water mark and the low-water mark of any navigable waterway of this state or along the banks of any river, stream or waterway now or hereafter along the waterway of this state, may be revoked by the State Docks Department whenever the department shall determine to make use of such property for purposes contemplated by this article or may be suspended pending investigation and decision as to whether such use shall be made; provided, that when such property has been or shall have been already improved by the upland owner, his license to maintain the improvement and to exercise such control thereover as may be conferred upon him by a license from the state shall not be revoked or suspended otherwise than by exercise of eminent domain as long as such owner shall occupy such property with improvements appropriate to and devoted to the use of such property as a facility to commerce as contemplated by the license. Whenever the State Docks Department shall determine that any part of the property of the state is being occupied under a license from the state, but that the improvements thereon are not being so maintained and used as facilities to commerce as reasonably to serve the purpose for which the license was granted, and it is desirable that this land should be improved by the State Docks Department, then the State Docks Department may call upon such owner of the improvements to put the same in such condition as reasonably to serve as such facilities to commerce within the purpose of the license under which they were erected. If the owner shall fail to comply with such request within a reasonable time, then the State Docks Department may file a complaint in the circuit court of the circuit in which the land is situated for the cancellation of such license. If, upon final hearing, it shall be determined by the court that said property is being occupied in violation of the intent and purpose of the license, then the court shall by its judgment cancel the same, and the State Docks Department shall be entitled to proceed with the improvement thereof; provided, that the use of such improvement by the upland owner shall in no event be disturbed until the State Docks Department is ready to begin the improvement of the land so occupied thereby under the terms of this article.

(Acts 1957, No. 311, p. 408, §16.)

Section 33-2-17

Bonds and interest exempt from taxation.

Any bonds issued pursuant to the authority of this article and the interest thereon shall be exempt from all taxation by the State of Alabama or any political subdivision thereof.

(Acts 1957, No. 311, p. 408, §17.)

Section 33-2-18

Article cumulative; legislative intent.

Nothing in this article shall be construed to alter, amend or repeal any act or part of any act now in force in this state or hereafter in force which is not in direct conflict with this article. The Legislature declares that it is the legislative intent that this article shall supplement, complement and enlarge upon all acts in this state covering or affecting the Alabama State Docks Department and that the Legislature intends by this article to authorize and provide for the further development of inland navigable waterways of this state, in aid of commerce and trade and under the supervision, control and direction of the state at all times acting through its State Docks Department.

(Acts 1957, No. 311, p. 408, §19.)

Article 2 1959 Provisions for Facilities Along Inland Waterways.

Section 33-2-30

Definitions.

The words and phrases hereinafter set forth, wherever used in this article, shall have the respective meanings hereinafter ascribed to them. These definitions shall include both the singular and the plural.

- (1) 1957 DOCKS AMENDMENT. Amendment 116 of the Constitution of Alabama.
- (2) THE STATE. The State of Alabama.
- (3) THE DEPARTMENT. The Alabama State Docks Department and any department or agency of the state that may succeed to its duties.
- (4) DOCK FACILITIES. Docks and all kinds of dock facilities, including elevators, warehouses, water and rail terminals, wharves, piles, quays, compresses and other related structures, facilities and improvements that may be needed for the convenient use of the same.
- (5) 1957 DOCKS ACT. Article 1 of this chapter.
- (6) THE BONDS. Those bonds issued under this article.
- (7) UNIT OF DEVELOPMENT. Any one or more dock facilities acquired pursuant to the provisions of either this article or the 1957 Docks Act which may be designated by the department as a unit of development for the purposes of this article; provided, that several dock facilities may be together designated as one unit of development only if they are contiguous to each other or closely related for purposes of use and operation.

(Acts 1959, 2nd Ex. Sess., No. 98, p. 288, §1.)

Section 33-2-31

Dock facilities at additional cost of \$3,500,000.00 authorized.

In addition to the authority granted to the state by the provisions of any other law, the state is hereby expressly authorized and empowered, at an additional cost to the state of not exceeding \$3,500,000.00, to engage in works of internal improvement by promoting, developing, constructing, maintaining and operating along navigable rivers, streams or waterways now or hereafter existing within the state, all manner of dock facilities, in aid of commerce and use of the waterways of this state, all pursuant to the provisions of the 1957 Docks Amendment. All such works, improvements and facilities shall always be and remain under the management and control of the department. The department shall be the agency of the state by which the state shall accomplish the acquisition, construction, maintenance and operation of dock facilities hereunder and shall, in general, accomplish the purposes of this article.

(Acts 1959, 2nd Ex. Sess., No. 98, p. 288, §2.)

Section 33-2-32

Authorized cost additional; total cost to state.

The authorization herein granted to the state of engaging in the aforesaid works of internal improvement at a cost of not exceeding \$3,500,000.00 is in addition to the authorization in the amount of \$3,000,000.00 granted by the 1957 Docks Act, thus bringing to the aggregate sum of \$6,500,000.00 the total authorization presently and heretofore granted by the Legislature pursuant to the provisions of the 1957 Docks Amendment. The use of revenues derived from operation of dock facilities shall not be deemed the incurring of cost by the state within the meaning of this section.

(Acts 1959, 2nd Ex. Sess., No. 98, p. 288, §3.)

Section 33-2-33

Authority to acquire, construct, maintain, etc., new facilities; completion of facilities acquired under 1957 act; plans and survey; approval of Governor; permit or consent from federal authorities.

The state, acting through the department, shall, in engaging in the works of internal improvement authorized by this article, have the power to acquire, purchase, install, lease, construct, own, hold, maintain, equip, control and operate along navigable rivers, streams or waterways now or hereafter existing within the state, and at river ports or landings along such navigable rivers, streams or waterways, dock facilities of all kinds, in aid of commerce and use of navigable waterways of the state, to the fullest extent practicable and to such extent as the department shall deem desirable or proper. The authority herein granted shall include the completion of any dock facilities originally acquired under the provisions of the 1957 Docks Act, and also the dredging of approaches to any dock facilities acquired, erected, maintained or operated pursuant to this article or the 1957 Docks Act. Before the department shall exercise the authority vested in it hereby with respect to any dock facilities or any dredging of the approaches thereto, the department shall first submit plans, including estimates of cost, prepared by competent engineers or architects, and a survey made by competent independent and professional engineers showing the economic feasibility of the proposal envisaged by such plans, to the Governor for his approval or disapproval. In the event of the Governor's disapproval, the plans shall either be abandoned or be revised and again submitted to the Governor for his approval or disapproval. Prior to the commencement of any construction, dredging or other work hereunder for which a permit from, or the

consent of, any United States authorities may be required by law, the department shall obtain the requisite permit or consent.

(Acts 1959, 2nd Ex. Sess., No. 98, p. 288, §4.)

Section 33-2-34

Authority, etc., of department under article cumulative.

All administration, supervision, authority and responsibility under this article and operations conducted hereunder, vested in the department, shall be in addition to all power, duties and authority conferred on the department by any other statute, it being the intent of this article that the authority, powers, responsibilities and duties imposed by this article shall be in addition to and supplemental of the powers, authority, responsibilities and duties conferred or imposed on the department by any other laws of the state.

(Acts 1959, 2nd Ex. Sess., No. 98, p. 288, §5.)

Section 33-2-35

How property and rights-of-way may be acquired; eminent domain proceedings.

In acquiring rights-of-way and property necessary for the construction of dock facilities and convenient approaches thereto in furtherance of the purposes of this article, the department shall have the power to acquire same by gift, lease, purchase, negotiation or condemnation. The department shall have all powers with respect to the condemnation of properties for the purposes of this article that were granted to that department in the 1957 Docks Act with respect to the condemnation of properties for the purposes of the 1957 Docks Act; and the exercise of such powers hereunder shall be subject to all limitations and conditions prescribed in the 1957 Docks Act.

(Acts 1959, 2nd Ex. Sess., No. 98, p. 288, §6.)

Section 33-2-36

Department may contract current indebtedness.

In any operations conducted under this article the department may contract such current indebtedness as is necessarily incident to the progress of the work in accordance with the terms of this article.

(Acts 1959, 2nd Ex. Sess., No. 98, p. 288, §7.)

Section 33-2-37

General provisions relative to additional inland waterways improvement bonds.

In order to provide funds for the purposes of this article, there are hereby authorized to be sold and issued bonds of the state not exceeding \$3,500,000.00 in aggregate principal amount, under and subject to the provisions hereinafter set forth. The bonds shall be designated as inland waterways improvement bonds of the state. The bonds shall be general obligations of the state, for payment of the principal of and interest

on which the full faith and credit of the state are hereby irrevocably pledged. The bonds may be issued from time to time in one or more series, shall bear an appropriate series designation, shall be in such form and denominations and of such tenor and maturities, shall bear such rate or rates of interest payable in such manner, may contain provisions for redemption prior to maturity, and may contain other provisions not inconsistent herewith, all as shall be set forth in an order or resolution of the department; provided, that the first installment of principal of the bonds of each series must mature not later than 10 years from the date of such series and the last installment of principal of the bonds of any series must mature not later than 30 years from such date; and, provided further, that any of the bonds having a stated maturity more than five years after its date shall be made subject to redemption at the option of the state at the end of the fifth year after the date of such bond and on any interest payment date thereafter under such terms and conditions as may be provided in the order or resolution whereunder such bond is authorized to be issued. The bonds shall be signed in the name of the state by either the facsimile or manually subscribed signatures of the Governor or the director of the department, and the Great Seal of the State, or a facsimile thereof, shall be affixed thereto or engraved, lithographed or imprinted thereon and attested by either the facsimile or manually subscribed signature of the Secretary of State; provided, that the signature on the bonds of any one of the said officials shall be subscribed manually thereon. The bonds may be in either bearer or registered form, either as to principal or interest or both. Interest on the bonds shall be payable semiannually, interest on coupon bonds being evidenced by interest coupons attached thereto, each of which coupons shall be authenticated by the facsimile signature of the State Treasurer imprinted thereon. Bonds issued in coupon form may be exchanged for fully registered bonds or bonds registered as to principal only. Coupon bonds and registered bonds shall be interchangeable; and upon issuance of a coupon bond for a registered bond, all matured and unearned coupons on said bond shall be by the State Treasurer first clipped from said bond and then cancelled. Regulations for the registration of bonds and for interchange of registered and coupon bonds shall be set forth in the order or resolution authorizing the issuance of such bonds. The State Treasurer shall maintain a record of all of the bonds issued hereunder, and shall maintain a separate record of all of the bonds that are registered, including a record of the names and addresses of the registered holders thereof. No order or resolution providing for the authorization or sale of any of the bonds shall become effective until approved by the Governor. The action of the department in adopting an order or resolution authorizing the sale of any of the bonds, and the action of the Governor in approving such order or resolution, shall be conclusive evidence that the funds to be derived from the bonds so authorized to be sold are actually needed at the time for the purposes for which bonds are herein authorized to be issued and that the proceeds of such bonds are intended only for such purposes.

(Acts 1959, 2nd Ex. Sess., No. 98, p. 288, §8.)

Section 33-2-38

Requirements for sale of bonds.

The bonds must be sold only at public sale, either on sealed bids or at public auction, to the bidder whose bid reflects the lowest net interest cost to the state for the bonds being sold, computed to their respective maturities; provided, that if no bid acceptable to the department and the Governor is received all bids may be rejected. Notice of each such sale shall be given by publication in either a financial journal or a financial newspaper published in the City of New York, New York, and also by publication in a

newspaper published in the state which is customarily published not less often than six days during each calendar week, each of which notices must be published at least one time not less than 10 days prior to the date fixed for the sale. The department may fix the terms and conditions under which each such sale may be held; provided, that none of the bonds may be sold for a price less than the face value thereof; and, provided further, that such terms and conditions shall not conflict with any of the requirements of this article.

(Acts 1959, 2nd Ex. Sess., No. 98, p. 288, §9.)

Section 33-2-39

Disposition of proceeds from sale of bonds.

The proceeds from the sale of any of the bonds shall be paid into the state treasury and kept by the State Treasurer in a separate account and paid over to the secretary-treasurer of the department from time to time in such amounts as shall be directed by the Governor and the money so paid over to the secretary-treasurer of the department shall be held and used only for the accomplishment of the purposes of this article, and specifically for payment of the cost of acquiring, by construction or otherwise, maintaining and operating, or any of them, dock facilities along navigable streams and waterways now or hereafter existing within the state, in aid of commerce and use of navigable waterways of the state. The cost of acquiring any dock facilities shall be deemed to include, inter alia, (1) fees of engineers and attorneys and other expenses incidental to such acquisition; (2) the cost of issuing those of the bonds that may be issued to provide funds for such acquisition; and (3) interest on such bonds during such period of time, not exceeding three years from the date of the completion of said dock facilities, as may be specified in the order or resolution authorizing the issuance of such bonds as the period of time estimated by the department to be required for placing the said dock facilities in profitable operation.

(Acts 1959, 2nd Ex. Sess., No. 98, p. 288, §10.)

Section 33-2-40

Application of revenues from dock facilities.

The proceeds derived from the operation of each unit of development acquired or constructed pursuant to the provisions of this article shall be applied for the following purposes in the following order: (1) Payment of the expenses of operating dock facilities acquired, constructed or operated pursuant to the provisions of this article; (2) payment at their respective maturities of the principal of and interest on any bonds issued pursuant to the provisions of this article; (3) establishment and maintenance of a sinking fund for retirement of any bonds issued pursuant to the provisions of this article, into which there shall be paid monthly, beginning at the end of the first 12 months following the completion of each unit of development acquired or constructed hereunder, one half of one per cent of the cost of each such unit of development, not exceeding, however, one half of the gross income of such unit of development received during the month preceding the making of such monthly payment. The proceeds from each unit of development acquired, constructed or operated pursuant to the provisions of this article remaining after compliance with the foregoing sentence shall be used for such of the following purposes as may from time to time be designated by the department: (1) Payment of expenses of operating any dock facility or facilities constructed pursuant to the provisions of the 1957 Docks Amendment; and (2) payment at their

respective maturities of the principal of and interest on any bonds at any time issued pursuant to the 1957 Docks Amendment. With respect to the revenues from any dock facilities, the acquisition, construction or operation of which was financed in part with bonds issued under the 1957 Docks Act and in part with bonds issued under this article, the provisions of this section shall be subject to the provisions of Sections 33-2-9 and 33-2-10. The retention by the department of such revenues as may be reasonably required for operating capital for dock facilities acquired, constructed or operated pursuant to the provisions of this article shall be deemed a retention of moneys for operating expenses within the meaning of this section. Moneys in the sinking fund provided for in this section shall be used only for the purpose of retirement of the bonds, either by payment of the principal thereof or the interest thereon at their respective maturities, redemption of the bonds prior to maturity pursuant to any redemption provisions that may be contained in the order or resolution whereunder such bonds are issued, or purchase of any of the bonds for cancellation and retirement at a purchase price not exceeding the face value thereof plus a premium equal to 12 months' interest thereon; provided, that pending use of moneys in said sinking fund for the purposes specified in this sentence such moneys may, in the discretion of the department with the approval of the Governor, be invested in securities which are direct general obligations of the United States.

(Acts 1959, 2nd Ex. Sess, No. 98, p. 288, §11.)

Section 33-2-41

Separate records as to each unit of development.

The department shall establish and maintain a separate record with respect to each unit of development that may have been or may be acquired, constructed or operated in whole or in part under the provisions of this article or the 1957 Docks Act. Each such separate record shall show: (1) The total amount of the capital investment in each such unit of development, including the amount of such capital investment derived from the proceeds of the bonds issued hereunder or under the 1957 Docks Act, and the amount, if any, of the said capital investment derived from any other source; (2) the expenses of operating each such unit of development; and (3) the gross revenues derived from the operation of each such unit of development. In the event any proceeds from bonds issued either under this article or the 1957 Docks Act shall be used to pay any of the operating expenses of any unit of development, the amount of bond proceeds so used shall be deemed a part of the capital investment in such unit of development.

(Acts 1959, 2nd Ex. Sess., No. 98, p. 288, §12.)

Section 33-2-42

Rates and charges for use of facilities.

The department shall have the right and power to fix from time to time and to collect reasonable rates and charges for services rendered by, and for the use of, dock facilities acquired, constructed or operated pursuant to the provisions of this article.

(Acts 1959, 2nd Ex. Sess., No. 98, p. 288, §13.)

Section 33-2-43

Revocation or cancellation of licenses to occupy state property.

Any license heretofore granted by the state, either expressly or by implication, permitting the upland owner to occupy any part of the space between the high-water mark and the low-water mark of any navigable waterway of this state, or along the banks of any river, stream or waterway of this state, may be revoked or cancelled by the department in the same manner and subject to the same conditions as those set forth in sSection 33-2-16.

(Acts 1959, 2nd Ex. Sess., No. 98, p. 288, §14.)

Section 33-2-44

Bonds and interest exempt from taxation.

Any bonds issued pursuant to the authority of this article and the interest thereon shall be exempt from all taxation by the state of Alabama or any political subdivision thereof.

(Acts 1959, 2nd Ex. Sess., No. 98, p. 288, §15.)

Article 3 1961 Provisions for Facilities Along Inland Waterways.

Section 33-2-60

Definitions.

The words and phrases hereinafter set forth, wherever used in this article, shall have the respective meanings hereinafter ascribed to them. These definitions shall include both the singular and the plural.

- (1) 1957 DOCKS AMENDMENT. Amendment 116 of the Constitution of Alabama.
- (2) THE STATE. The State of Alabama.
- (3) THE DEPARTMENT. The Alabama State Docks Department and any department or agency of the state that may succeed to its duties.
- (4) DOCK FACILITIES. Docks and all kinds of dock facilities, including elevators, warehouses, water and rail terminals, wharves, piles, quays, compresses, storm haven facilities for all types of watercraft, channels between navigable waterways of the state for the purpose of connecting such waterways and aiding the use thereof and other related structures, facilities and improvements that may be needed for the convenient use of the same.
- (5) 1957 DOCKS ACT. Article 1 of this chapter.
- (6) 1959 DOCKS ACT. Article 2 of this chapter.
- (7) THE BONDS. Those issued hereunder.

(8) UNIT OF DEVELOPMENT. Any one or more dock facilities acquired pursuant to the provisions of either this article or the 1957 Docks Act or the 1959 Docks Act which may be designated by the department as a unit of development for the purposes of this article; provided, that several dock facilities may be together designated as one unit of development only if they are contiguous to each other or closely related for purposes of use and operation.

(9) FISCAL YEAR. The fiscal year of the department.

(10) INLAND WATERWAYS FACILITIES. All dock facilities at any time acquired or constructed pursuant to the provisions of the 1957 Docks Amendment.

(11) OPERATING DEFICIT OF THE INLAND WATERWAYS FACILITIES. The sum, if any there be, by which the gross revenues derived from the operation of the inland waterways facilities during any fiscal year may be exceeded by the total of all expenses, excluding any deductions for depreciation, incurred during the same fiscal year in the operation of the inland waterways facilities and in the maintenance thereof in good operating condition.

(12) PORT OF MOBILE FACILITIES. The facilities of all kinds known as the state docks owned by the state and operated by the department at the Port of Mobile.

(13) SURPLUS REVENUES OF THE PORT OF MOBILE FACILITIES. The gross revenues derived from the operation of the Port of Mobile facilities remaining at the end of any fiscal year after there shall have been deducted therefrom all expenses (excluding any deductions for depreciation), incurred during the same fiscal year in the operation of the Port of Mobile facilities and the maintenance thereof in good operating condition, and all payments required to be made during such fiscal year in order to comply with: a. Sinking fund requirements for the Alabama harbor improvement bonds at the time outstanding which were heretofore issued by the state for the development of the Port of Mobile facilities, b. the obligations and agreements on the part of the department under any lease agreement at the time in effect which may have theretofore been made by the department for the rental of facilities located or for use at the Port of Mobile, and c. the obligations and agreements on the part of the department which may have been made in any order of the department providing for the issuance of any revenue bonds at the time outstanding and which were theretofore issued by the department with respect to the Port of Mobile facilities.

(Acts 1961, No. 716, p. 1014, §1.)

Section 33-2-61

Dock facilities at additional cost of \$1,500,000.00 authorized.

In addition to the authority granted to the state by the provisions of any other law, the state is hereby expressly authorized and empowered, at an additional cost to the state of not exceeding \$1,500,000.00, to engage in works of internal improvement by promoting, developing, constructing, maintaining and operating along navigable rivers, streams or waterways now or hereafter existing within the state, all manner of dock facilities, in aid of commerce and use of the waterways of this state, all pursuant to the provisions of the 1957 Docks Amendment. All such works, improvements and facilities shall always be and remain under the management and control of the department. The department shall be the agency of

the state by which the state shall accomplish the acquisition, construction, maintenance and operation of dock facilities hereunder and shall, in general, accomplish the purposes of this article.

(Acts 1961, No. 716, p. 1014, §2.)

Section 33-2-62

Authorized cost additional; total cost to state.

The authorization herein granted to the state of engaging in the aforesaid works of internal improvement at a cost of not exceeding \$1,500,000.00 is in addition to the authorization in the amount of \$3,000,000.00 granted by the 1957 Docks Act, and to the authorization in the amount of \$3,500,000.00 granted by the 1959 Docks Act, thus bringing to the aggregate sum of \$8,000,000.00 the total authorization presently and heretofore granted by the legislature pursuant to the provisions of the 1957 Docks Amendment. The use of revenues derived from operation of dock facilities shall not be deemed the incurring of cost by the state within the meaning of this section.

(Acts 1961, No. 716, p. 1014, §3.)

Section 33-2-63

Authority to acquire, construct, maintain, etc., new facilities; completion of facilities acquired under 1957 and 1959 acts; plans and survey; approval of Governor; permit or consent from federal authorities.

The state, acting through the department, shall, in engaging in the works of internal improvement authorized by this article, have the power to acquire, purchase, install, lease, construct, own, hold, maintain, equip, control and operate along navigable rivers, streams or waterways now or hereafter existing within the state, and at river ports or landings along such navigable rivers, streams or waterways, dock facilities of all kinds, in aid of commerce and use of navigable waterways of the state, to the fullest extent practicable and to such extent as the department shall deem desirable or proper. The authority herein granted shall include the completion of any dock facilities originally acquired under the provisions of the 1957 Docks Act, or the 1959 Docks Act; and also the dredging of approaches to any dock facilities, acquired, erected, maintained or operated pursuant to this article or the 1957 Docks Act or the 1959 Docks Act. Before the department shall exercise the authority vested in it hereby with respect to any dock facilities or any dredging of the approaches thereto, the department shall first submit plans, including estimates of cost, prepared by competent engineers or architects, and a survey made by competent independent and professional engineers showing the economic feasibility of the proposal envisaged by such plans, to the Governor for his approval or disapproval. In the event of the Governor's disapproval, the plans shall either be abandoned or be revised and again submitted to the Governor for his approval or disapproval. Prior to the commencement of any construction, dredging or other work hereunder for which a permit from, or the consent of, any United States authorities may be required by law, the department shall obtain the requisite permit or consent.

(Acts 1961, No. 716, p. 1014, §4.)

Section 33-2-64

Authority, etc., of department under article cumulative.

All administration, supervision, authority and responsibility under this article and operations conducted hereunder, vested in the department, shall be in addition to all power, duties and authority conferred on the department by any other statute, it being the intent of this article that the authority, powers, responsibilities and duties imposed by this article shall be in addition to and supplemental of the powers, authority, responsibilities and duties conferred or imposed on the department by any other laws of the state.

(Acts 1961, No. 716, p. 1014, §5.)

Section 33-2-65

How property and rights-of-way may be acquired; eminent domain proceedings.

In acquiring rights-of-way and property necessary for the construction of dock facilities and convenient approaches thereto in furtherance of the purposes of this article, the department shall have the power to acquire same by gift, lease, purchase, negotiation or condemnation. The department shall have all powers with respect to the condemnation of properties for the purposes of this article that were granted to that department in the 1957 Docks Act; and the exercise of such powers hereunder shall be subject to all limitations and conditions prescribed in the 1957 Docks Act.

(Acts 1961, No. 716, p. 1014, §6.)

Section 33-2-66

Department may contract current indebtedness.

In any operations conducted under this article, the department may contract such current indebtedness as is necessarily incident to the progress of the work in accordance with the terms of this article.

(Acts 1961, No. 716, p. 1014, §7.)

Section 33-2-67

General provisions relative to additional inland waterways improvement bonds.

In order to provide funds for the purposes of this article, there are hereby authorized to be sold and issued bonds of the state not exceeding \$1,500,000.00 in aggregate principal amount, under and subject to the provisions hereinafter set forth. The bonds shall be designated as inland waterway improvement bonds of the state. The bonds shall be general obligations of the state, for payment of the principal of and interest on which the full faith and credit of the state are hereby irrevocably pledged. The bonds may be issued from time to time in one or more series, shall bear an appropriate series designation, shall be in such form and denominations and of such tenor and maturities, shall bear such rate or rates of interest payable in such manner, may contain provisions for redemption prior to maturity, and may contain other provisions

not inconsistent herewith, all as shall be set forth in an order or resolution of the department; provided, that the first installment of principal of the bonds of each series must mature not later than 10 years from the date of such series and the last installment of principal of the bonds of any series must mature not later than 30 years from such date; and, provided further, that any of the bonds having a stated maturity more than five years after its date shall be made subject to redemption at the option of the state at the end of the fifth year after the date of such bond and on any interest payment date thereafter under such terms and conditions as may be provided in the order or resolution whereunder such bond is authorized to be issued. The bonds shall be signed in the name of the state by either the facsimile or manually subscribed signatures of the Governor or the director of the department, and the Great Seal of the State, or a facsimile thereof, shall be affixed thereto or engraved, lithographed or imprinted thereon and attested by either the facsimile or manually subscribed signature of the Secretary of State; provided, that the signature on the bonds of any one of the said officials shall be subscribed manually thereon. The bonds may be in either bearer or registered form, either as to principal or interest or both. Interest on the bonds shall be payable semiannually, interest on coupon bonds being evidenced by interest coupons attached thereto, each of which coupons shall be authenticated by the facsimile signature of the State Treasurer imprinted thereon. Bonds issued in coupon form may be exchanged for fully registered bonds or bonds registered as to principal only. Coupon bonds and registered bonds shall be interchangeable; and upon issuance of a coupon bond for a registered bond, all matured and unearned coupons on said bond shall be by the State Treasurer first clipped from said bond and then cancelled. Regulations for the registration of bonds and for interchange of registered and coupon bonds shall be set forth in the order or resolution authorizing the issuance of such bonds. The State Treasurer shall maintain a record of all of the bonds issued hereunder, and shall maintain a separate record of all of the bonds that are registered, including a record of the names and addresses of the registered holders thereof. No order or resolution providing for the authorization or sale of any of the bonds shall become effective until approved by the Governor. The action of the department in adopting an order or resolution authorizing the sale of any of the bonds, and the action of the Governor in approving such order or resolution, shall be conclusive evidence that the funds to be derived from the bonds so authorized to be sold are actually needed at the time for the purposes for which bonds are herein authorized to be issued and that the proceeds of such bonds are intended only for such purposes.

(Acts 1961, No. 716, p. 1014, §8.)

Section 33-2-68

Requirements for sale of bonds.

The bonds must be sold only at public sale, either on sealed bids or at public auction, to the bidder whose bid reflects the lowest net interest cost to the state for the bonds being sold, computed to their respective maturities; provided, that if no bid acceptable to the department and the Governor is received all bids may be rejected. Notice of each such sale shall be given by publication in either a financial journal or a financial newspaper published in the City of New York, New York, and also by publication in a newspaper published in the state which is customarily published not less often than six days during each calendar week, each of which notices must be published at least one time not less than 10 days prior to the date fixed for the sale. The department may fix the terms and conditions under which each such sale may be held; provided, that none of the bonds may be sold for a price less than the face value thereof; and,

provided further, that such terms and conditions shall not conflict with any of the requirements of this article.

(Acts 1961, No. 716, p. 1014, §9.)

Section 33-2-69

Disposition of proceeds from sale of bonds.

The proceeds from the sale of any of the bonds (other than refunding bonds) shall be paid into the State Treasury and kept by the State Treasurer in a separate account and paid over to the secretary-treasurer of the department from time to time in such amounts as shall be directed by the Governor, and the money so paid over to the secretary-treasurer of the department shall be held and used only for the accomplishment of the purposes of this article, and specifically for payment of the cost of acquiring, by construction or otherwise, maintaining and operating, or any of them, dock facilities along navigable streams and waterways now or hereafter existing within the state, in aid of commerce and use of navigable waterways of the state. The cost of acquiring any dock facilities that may be acquired with the proceeds of bonds issued under this article shall be deemed to include, inter alia, (1) fees of engineers and attorneys and other expenses incidental to such acquisition; and (2) the cost of issuing those of the bonds that may be issued to provide funds for such acquisition. The proceeds derived from the sale of any refunding bonds issued hereunder shall be used only as provided in Section 33-2-72.

(Acts 1961, No. 716, p. 1014, §10.)

Section 33-2-70

Appropriation for payment of principal and interest on bonds.

There is hereby appropriated for the payment of the principal of and interest on any bonds issued hereunder, under the 1957 Docks Act or under the 1959 Docks Act so much as may be necessary for that purpose of any moneys in the general fund of the state not otherwise appropriated.

(Acts 1961, No. 716, p. 1014, §11.)

Section 33-2-71

Application of revenues from inland waterways facilities.

The gross revenues derived from the operation of each unit of development comprising a part of the inland waterways facilities shall be applied for the following purposes in the following order: (1) Payment of the expenses of operating and maintaining in good operating condition the unit of development from which such revenues are derived; and (2) payment of the expenses of operating and maintaining in good condition any other unit of development or units of development comprising a part of the inland waterways facilities. Whenever the gross revenues received by the department from the inland waterways facilities during a fiscal year shall be greater than the expenses of operating and maintaining in good operating condition the inland waterways system during that fiscal year, then the revenues from the inland waterways system remaining at the end of that fiscal year after compliance with the first sentence of this section shall be applied for that one or more or all of the following purposes that may be designated by

the department, the sums to be so applied to be in such amounts and to be applied in such manner as the department may designate: (1) Retention of such amounts, for use as working capital for the inland waterways facilities as the department may determine to be reasonably necessary for such purpose; (2) payment of the cost of capital improvements and additions to the inland waterways facilities; and (3) payment at their respective maturities of the principal of or interest on any bonds theretofore issued and at the time outstanding under the 1957 Docks Amendment; provided, that the revenues from the operation of any unit of development the acquisition or construction of which was financed wholly or in part with bonds issued under the 1957 Docks Act shall, to such extent as may be required by the provisions of the 1957 Docks Act, be applied for payment at their respective maturities of those bonds issued under the 1957 Docks Act and for payments into the sinking fund created in that act, and the revenues from the operation of any unit of development the acquisition or construction of which was financed wholly or in part with bonds issued under the 1959 Docks Act shall, to such extent as may be required by the provisions of the 1959 Docks Act, be applied for payment at their respective maturities of the principal of and the interest on those bonds issued under the 1959 Docks Act and for payments into the sinking fund created in that act.

(Acts 1961, No. 716, p. 1014, §12.)

Section 33-2-72

Refunding bonds.

The state may at any time and from time to time issue refunding bonds for the purpose of refunding the principal of and the interest on any matured or unmatured bonds of the state then outstanding which were theretofore issued under any one or more of this article, or the 1957 Docks Act, or the 1959 Docks Act. The proceeds derived from the sale of such refunding bonds shall be paid to the State Treasurer and disbursed on order or resolution of the department solely to refund and retire those bonds for the refunding of which such refunding bonds are authorized to be issued, and to pay the expenses incurred in such refunding; provided, that pending the time such refunding can be consummated such proceeds may be invested as herein authorized. All provisions of this article pertaining to bonds issued under this article that are not inconsistent with the provisions of this section shall, to the extent applicable, also apply to the refunding bonds issued hereunder. The principal proceeds from the sale of any bonds issued hereunder, when not needed for the purposes for which such bonds were issued, and any other moneys received hereunder, when not needed for the purposes for which such moneys may be used, may at the discretion of the director, with the approval of the Governor, be invested in direct general obligations of the United States of America and the earnings on any investment so made shall be used in the same manner that the moneys so invested are herein provided to be used.

(Acts 1961, No. 716, p. 1014, §12A.)

Section 33-2-73

Separate records as to each unit of development.

The department shall establish and maintain a separate record with respect to each unit of development that may have been or may be acquired, constructed or operated in whole or in part under the provisions of this article, or the 1957 Docks Act, or the 1959 Docks Act. Each such separate record shall show: (1)

The total amount of the capital investment in each such unit of development, including the amount of such capital investment derived from the proceeds of the bonds issued hereunder or under the 1957 Docks Act or the 1959 Docks Act, and the amount, if any, of the said capital investment derived from any other source; (2) the expenses of operating each such unit of development; and (3) the gross revenues derived from the operation of each such unit of development. In the event any proceeds from bonds issued either under this article or the 1957 Docks Act or the 1959 Docks Act shall be used to pay any of the operating expenses of any unit of development, the amount of bond proceeds so used shall be deemed a part of the capital investment in such unit of development.

(Acts 1961, No. 716, p. 1014, §13.)

Section 33-2-74

Use of surplus revenues of Port of Mobile facilities to pay operating deficit.

If it shall be determined by the department at the end of any fiscal year that there are surplus revenues of the Port of Mobile facilities with respect to that fiscal year and an operating deficit of the inland waterways facilities with respect to that fiscal year, then any such surplus revenues may, to such extent as may be directed by the department, be used to meet any such operating deficit.

(Acts 1961, No. 716, p. 1014, §13A.)

Section 33-2-75

Rates and charges for use of facilities.

The department shall have the right and power to fix from time to time and to collect reasonable rates and charges for services rendered by, and for the use of, dock facilities acquired, constructed or operated pursuant to the provisions of this article.

(Acts 1961, No. 716, p. 1014, §14.)

Section 33-2-76

Revocation or cancellation of licenses to occupy state property.

Any license heretofore granted by the state, either expressly or by implication, permitting the upland owner to occupy any part of the space between the high-water mark and the low-water mark of any navigable waterway of this state, or along the banks of any river, stream or waterway of this state, may be revoked or cancelled by the department in the same manner and subject to the same conditions as those set forth in Section 33-2-16.

(Acts 1961, No. 716, p. 1014, §15.)

Section 33-2-77

Bonds and interest exempt from taxation.

Any bonds issued pursuant to the authority of this article and the interest thereon shall be exempt from all taxation by the State of Alabama or any political subdivision thereof.

(Acts 1961, No. 716, p. 1014, §16.)

Article 4 1963 Provisions for Facilities Along Inland Waterways.

Section 33-2-90

Definitions.

The words and phrases hereinafter set forth, wherever used in this article, shall have the respective meanings hereinafter ascribed to them. These definitions shall include both the singular and the plural.

- (1) 1957 DOCKS AMENDMENT. Amendment 116 of the Constitution of Alabama.
- (2) THE STATE. The State of Alabama.
- (3) THE DEPARTMENT. The Alabama State Docks Department and any department or agency of the state that may succeed to its duties.
- (4) DOCKS FACILITIES. Docks and all kinds of dock facilities, including elevators, warehouses, water and rail terminals, wharves, piles, quays, compresses, storm haven facilities for all types of watercraft, channels between navigable waterways of the state for the purpose of connecting such waterways and aiding the use thereof, and other related structures, facilities and improvements, that may be needed for the convenient use of the same.
- (5) 1957 DOCKS ACT. Article 1 of this chapter.
- (6) 1959 DOCKS ACT. Article 2 of this chapter.
- (7) 1961 DOCKS ACT. Article 3 of this chapter.
- (8) THE BONDS. Those issued hereunder.
- (9) UNIT OF DEVELOPMENT. Any one or more dock facilities acquired pursuant to the provisions of either this article or the 1957 Docks Act, the 1959 Docks Act or the 1961 Docks Act which may be designated by the department as a unit of development for the purposes of this article; provided, that several dock facilities may be together designated as one unit of development only if they are contiguous to each other or closely related for purposes of use and operation.
- (10) FISCAL YEAR. The fiscal year of the department.
- (11) INLAND WATERWAYS FACILITIES. All dock facilities at any time acquired or constructed pursuant to the provisions of the 1957 Docks Amendment.
- (12) OPERATION DEFICIT OF THE INLAND WATERWAYS FACILITIES. The sum, if any there be, by which the gross revenues derived from the operation of the inland waterways facilities during any

fiscal year may be exceeded by the total of all expenses, excluding any deductions for depreciation, incurred during the same fiscal year in the operation of the inland waterways facilities and in the maintenance thereof in good operating condition.

(13) PORT OF MOBILE FACILITIES. The facilities of all kinds known as the state docks owned by the state and operated by the department at the Port of Mobile.

(14) SURPLUS REVENUES OF THE PORT OF MOBILE FACILITIES. The gross revenues derived from the operation of the Port of Mobile facilities remaining at the end of any fiscal year after there shall have been deducted therefrom all expenses (excluding any deductions for depreciation), incurred during the same fiscal year in the operation of the Port of Mobile facilities and the maintenance thereof in good operating condition, and all payments required to be made during such fiscal year in order to comply with: a. Sinking fund requirements for the Alabama harbor improvement bonds at the time outstanding which were heretofore issued by the state for the development of the Port of Mobile facilities, b. the obligations and agreements on the part of the department under any lease agreement at the time in effect which may have theretofore been made by the department for the rental of facilities located or for use at the Port of Mobile, and c. the obligations and agreements on the part of the department which may have been made in any order of the department providing for issuance of any securities at the time outstanding which were theretofore issued by the department or by the state and for the payment of which revenues from the Port of Mobile facilities were pledged.

(Acts 1963, No. 192, p. 573, §1.)

Section 33-2-91

Dock facilities at additional cost of \$2,000,000.00 authorized.

In addition to the authority granted to the state by the provisions of any other law, the state is hereby expressly authorized and empowered, at an additional cost to the state of not exceeding \$2,000,000.00, to engage in works of internal improvement by promoting, developing, constructing, maintaining and operating along navigable rivers, streams or waterways now or hereafter existing within the state, all manner of dock facilities, in aid of commerce and use of the waterways of this state, all pursuant to the provisions of the 1957 Docks Amendment. All such works, improvements and facilities shall always be and remain under the management and control of the department. The department shall be the agency of the state by which the state shall accomplish the acquisition, construction, maintenance and operation of dock facilities hereunder and shall, in general, accomplish the purposes of this article.

(Acts 1963, No. 192, p. 573, §2.)

Section 33-2-92

Authorized cost additional; total cost to state.

The authorization herein granted to the state of engaging in the aforesaid works of internal improvement at a cost of not exceeding \$2,000,000.00 is in addition to the authorization in the amount of \$3,000,000.00 granted by the 1957 Docks Act, and to the authorization in the amount of \$3,500,000.00 granted by the 1959 Docks Act, and to the authorization in the amount of \$1,500,000.00 granted by the 1961 Docks Act,

thus bringing to the aggregate sum of \$10,000,000.00 the total authorization presently and heretofore granted by the Legislature pursuant to the provisions of the 1957 Docks Amendment. The use of revenues derived from operation of dock facilities shall not be deemed the incurring of cost by the state within the meaning of this section.

(Acts 1963, No. 192, p. 573, §3.)

Section 33-2-93

Authority to acquire, construct, maintain, etc., new facilities; completion of facilities acquired under earlier acts; plans and survey; approval of Governor; permit or consent from federal authorities.

The state, acting through the department, shall, in engaging in the works of internal improvement authorized by this article, have the power to acquire, purchase, install, lease, construct, own, hold, maintain, equip, control and operate along navigable rivers, streams or waterways now or hereafter existing within the state, and at river ports or landings along such navigable rivers, streams or waterways, dock facilities of all kinds, in aid of commerce and use of navigable waterways of the state, to the fullest extent practicable and to such extent as the department shall deem desirable or proper. The authority herein granted shall include the completion of any dock facilities originally acquired under the provisions of the 1957 Docks Act, or the 1959 Docks Act, or the 1961 Docks Act; and also the dredging of approaches to any dock facilities, acquired, erected, maintained or operated pursuant to this article, or the 1957 Docks Act, or the 1959 Docks Act, or the 1961 Docks Act. Before the department shall exercise the authority vested in it hereby with respect to any dock facilities or any dredging of the approaches thereto, the department shall first submit plans, including estimates of cost, prepared by competent engineers or architects, and a survey made by competent independent and professional engineers showing the economic feasibility of the proposal envisaged by such plans, to the Governor for his approval or disapproval. In the event of the Governor's disapproval, the plans shall either be abandoned or be revised and again submitted to the Governor for his approval or disapproval. Prior to the commencement of any construction, dredging, or other work hereunder for which a permit from, or consent of, any United States authorities may be required by law, the department shall obtain the requisite permit or consent.

(Acts 1963, No. 192, p. 573, §4.)

Section 33-2-94

Authority, etc., of department under article cumulative.

All administration, supervision, authority and responsibility under this article and operations conducted hereunder, vested in the department, shall be in addition to all power, duties and authority conferred on the department by any other statute, it being the intent of this article that the authority, powers, responsibilities and duties imposed by this article shall be in addition to and supplemental of the powers, authority, responsibilities and duties conferred or imposed on the department by any other laws of the state.

(Acts 1963, No. 192, p. 573, §5.)

Section 33-2-95

How property and rights-of-way may be acquired; eminent domain proceedings.

In acquiring rights-of-way and property necessary for the construction of dock facilities and convenient approaches thereto in furtherance of the purposes of this article, the department shall have the power to acquire same by gift, lease, purchase, negotiation or condemnation. The department shall have all powers with respect to the condemnation of properties for the purposes of this article that were granted to that department in the 1957 Docks Act; and the exercise of such powers hereunder shall be subject to all limitations and conditions prescribed in the 1957 Docks Act.

(Acts 1963, No. 192, p. 573, §6.)

Section 33-2-96

Department may contract current indebtedness.

In any operations conducted under this article, the department may contract such current indebtedness as is necessarily incident to the progress of the work in accordance with the terms of this article.

(Acts 1963, No. 192, p. 573, §7.)

Section 33-2-97

General provisions relative to additional inland waterways improvement bonds.

In order to provide funds for the purposes of this article, there are hereby authorized to be sold and issued bonds of the state not exceeding \$2,000,000.00 in aggregate principal amount, under and subject to the provisions hereinafter set forth. The bonds shall be designated as inland waterway improvement bonds of the state. The bonds shall be general obligations of the state, for payment of the principal of and interest on which the full faith and credit of the state are hereby irrevocably pledged. The bonds may be issued from time to time in one or more series, shall bear an appropriate series designation, shall be in such form and denominations and of such tenor and maturities, shall bear such rate or rates of interest payable in such manner, may contain provisions for redemption prior to maturity, and may contain other provisions not inconsistent herewith, all as shall be set forth in an order or resolution of the department; provided, that the first installment of principal of bonds of each series must mature not later than three years from the date of such series and the last installment of principal of bonds of such series shall mature not later than 20 years from such date; and, provided further, that the total principal and interest maturing on the bonds of any series in any one year shall not exceed twice the smallest amount of such principal and interest maturing in any preceding year; and, provided further, that any of the bonds having a stated maturity more than five years after its date shall be made subject to redemption at the option of the state at the end of the fifth year after the date of such bond and on any interest payment date thereafter under such terms and conditions as may be provided in the order or resolution whereunder such bond is authorized to be issued. The bonds shall be signed in the name of the state by either the facsimile or manually subscribed signatures of the Governor or the director of the department, and the Great Seal of the State, or a facsimile thereof, shall be affixed thereto or engraved, lithographed or imprinted thereon and attested by

either the facsimile or manually subscribed signature of the Secretary of State; provided, that the signature on the bonds of any one of the said officials shall be subscribed manually thereon. The bonds may be in either bearer or registered form, either as to principal or interest or both. Interest on the bonds shall be payable semiannually, interest on coupon bonds being evidenced by interest coupons attached thereto, each of which coupons shall be authenticated by the facsimile signature of the State Treasurer imprinted thereon. Bonds issued in coupon form may be exchanged for fully registered bonds or bonds registered as to principal only. Coupon bonds and registered bonds shall be interchangeable; and upon issuance of a coupon bond for a registered bond, all matured and unearned coupons on said bond shall be by the State Treasurer first clipped from said bond and then cancelled. Regulations for the registration of bonds and for interchange of registered and coupon bonds shall be set forth in the order or resolution authorizing the issuance of such bonds. The State Treasurer shall maintain a record of all of the bonds issued hereunder, and shall maintain a separate record of all of the bonds that are registered, including a record of the names and addresses of the registered holders thereof. No order or resolution providing for the authorization or sale of any of the bonds shall become effective until approved by the Governor. The action of the department in adopting an order or resolution authorizing the sale of any of the bonds, and the action of the Governor in approving such order or resolution, shall be conclusive evidence that the funds to be derived from the bonds so authorized to be sold are actually needed at the time for the purposes for which bonds are herein authorized to be issued and that the proceeds of such bonds are intended only for such purposes.

(Acts 1963, No. 192, p. 573, §8.)

Section 33-2-98

Requirements for sale of bonds.

The bonds must be sold only at public sale, either on sealed bids or at public auction, to the bidder whose bid reflects the lowest net interest cost to the state for the bonds being sold, computed to their respective maturities; provided, that if no bid acceptable to the department and the Governor is received all bids may be rejected. Notice of each such sale shall be given by publication in either a financial journal or a financial newspaper published in the City of New York, New York, and also by publication in a newspaper published in the state which is customarily published not less often than six days during each calendar week, each of which notices must be published at least one time not less than 10 days prior to the date fixed for the sale. The department may fix the terms and conditions under which each such sale may be held; provided, that none of the bonds may be sold for a price less than the face value thereof; and, provided further, that such terms and conditions shall not conflict with any of the requirements of this article.

(Acts 1963, No. 192, p. 573, §9.)

Section 33-2-99

Disposition of proceeds from sale of bonds.

The proceeds from the sale of any of the bonds (other than refunding bonds) shall be paid into the State Treasury and kept by the State Treasurer in a separate account and paid over to the secretary-treasurer of the department from time to time in such amounts as shall be directed by the Governor and the money so

paid over to the secretary-treasurer of the department shall be held and used only for the accomplishment of the purposes of this article, and specifically for payment of the cost of acquiring, by construction or otherwise, maintaining and operating, or any of them, dock facilities along navigable streams and waterways now or hereafter existing within the state, in aid of commerce and use of navigable waterways of the state. The cost of acquiring any dock facilities that may be acquired with the proceeds of bonds issued under this article shall be deemed to include, inter alia, (1) fees of engineers and attorneys and other expenses incidental to such acquisition; and (2) the cost of issuing those of the bonds that may be issued to provide funds for such acquisition. The proceeds derived from the sale of any refunding bonds issued hereunder shall be used only as provided in Section 33-2-102.

(Acts 1963, No. 192, p. 573, §10.)

Section 33-2-100

Appropriation for payment of principal and interest on bonds.

There is hereby appropriated for the payment of the principal of and interest on any bonds issued hereunder, under the 1957 Docks Act, or under the 1959 Docks Act or the 1961 Docks Act, so much as may be necessary for that purpose of any moneys in the general fund of the state not otherwise appropriated.

(Acts 1963, No. 192, p. 573, §11.)

Section 33-2-101

Application of revenues from inland waterways facilities.

The gross revenues derived from the operation of each unit of development comprising a part of the inland waterways facilities shall be applied for the following purposes in the following order: (1) Payment of the expenses of operating and maintaining in good operating condition the unit of development from which such revenues are derived; and (2) payment of the expenses of operating and maintaining in good condition any other unit of development or units of development comprising a part of the inland waterways facilities. Whenever the gross revenues received by the department from the inland waterways facilities during a fiscal year shall be greater than the expenses of operating and maintaining in good operating condition the inland waterways system during that fiscal year, then the revenues from the inland waterways system remaining at the end of that fiscal year after compliance with the first sentence of this section shall be applied for that one or more or all of the following purposes that may be designated by the department, the sums to be so applied to be in such amounts and to be applied in such manner as the department may designate: (1) Retention of such amounts, for use as working capital for the inland waterways facilities as the department may determine to be reasonably necessary for such purpose; (2) payment of the cost of capital improvements and additions to the inland waterways facilities; and (3) payment at their respective maturities of the principal of or interest on any bonds theretofore issued and at the time outstanding under the 1957 Docks Amendment; provided, that the revenues from the operation of any unit of development the acquisition or construction of which was financed wholly or in part with bonds issued under the 1957 Docks Act shall, to such extent as may be required by the provisions of the 1957 Docks Act, be applied for payment at their respective maturities of those bonds issued under the 1957 Docks Act for payments into the sinking fund created in that act, and the revenues from the

operation of any unit of development the acquisition or construction of which was financed wholly or in part with bonds issued under the 1959 Docks Act shall, to such extent as may be required by the provisions of the 1959 Docks Act, be applied for payment at their respective maturities of the principal of and the interest on those bonds issued under the 1959 Docks Act and for payments into the sinking fund created in that act, and the revenues from the operation of any unit of development the acquisition or construction of which was financed wholly or in part with bonds issued under the 1961 Docks Act shall, to such extent as may be required by the provisions of the 1961 Docks Act, be applied for payment at their respective maturities of the principal of and the interest on those bonds issued under the 1961 Docks Act and for payments into the sinking fund created in that act.

(Acts 1963, No. 192, p. 573, §12.)

Section 33-2-102

Provisions of article applicable to refunding bonds; investment of proceeds of bonds, etc.

All provisions of this article pertaining to bonds issued under this article that are not inconsistent with the provisions of this section shall, to the extent applicable, also apply to the refunding bonds issued hereunder. The principal proceeds from the sale of any bonds issued hereunder, when not needed for the purposes for which such bonds were issued, and any other moneys received hereunder, when not needed for the purposes for which such moneys may be used, may at the discretion of the director, with the approval of the Governor, be invested in direct general obligations of the United States of America and the earnings on any investment so made shall be used in the same manner that the moneys so invested are herein provided to be used.

(Acts 1963, No. 192, p. 573, §13.)

Section 33-2-103

Separate records as to each unit of development.

The department shall establish and maintain a separate record with respect to each unit of development that may have been or may be acquired, constructed or operated in whole or in part under the provisions of this article, or the 1957 Docks Act, the 1959 Docks Act, or the 1961 Docks Act. Each such separate record shall show: (1) The total amount of the capital investment in each such unit of development, including the amount of such capital investment derived from the proceeds of the bonds issued hereunder or under the 1957 Docks Act, the 1959 Docks Act, or the 1961 Docks Act; and the amount, if any, of the said capital investment derived from any other source; (2) the expenses of operating each such unit of development; and (3) the gross revenues derived from the operation of each such unit of development. In the event any proceeds from bonds issued either under this article or under the 1957 Docks Act, the 1959 Docks Act or the 1961 Docks Act shall be used to pay any of the operating expenses of any unit of development, the amount of bond proceeds so used shall be deemed a part of the capital investment in such unit of development.

(Acts 1963, No. 192, p. 573, §14.)

Section 33-2-104

Use of surplus revenues of Port of Mobile facilities to pay operating deficit.

If at the end of any fiscal year there are surplus revenues of the Port of Mobile facilities with respect to that fiscal year and an operating deficit of the inland waterways facilities with respect to that fiscal year then any such surplus revenues shall be used to meet any such operating deficit.

(Acts 1963, No. 192, p. 573, §15.)

Section 33-2-105

Rates and charges for use of facilities.

The department shall have the right and power to fix from time to time and to collect reasonable rates and charges for services rendered by, and for the use of, dock facilities acquired, constructed or operated pursuant to the provisions of this article.

(Acts 1963, No. 192, p. 573, §16.)

Section 33-2-106

Revocation or cancellation of licenses to occupy state property.

Any license heretofore granted by the state, either expressly or by implication, permitting the upland owner to occupy any part of the space between the high-water mark and the low-water mark of any navigable waterway of this state, or along the banks of any river, stream or waterway of this state, may be revoked or cancelled by the department in the same manner and subject to the same conditions as those set forth in Section 33-2-16.

(Acts 1963, No. 192, p. 573, §17.)

Section 33-2-107

Bonds and interest exempt from taxation.

Any bonds issued pursuant to the authority of this article and the interest thereon shall be exempt from all taxation by the State of Alabama or any political subdivision thereof.

(Acts 1963, No. 192, p. 573, §18.)

Article 5 1967 Provisions for Facilities Along Inland Waterways.

Section 33-2-120

Definitions.

The words and phrases hereinafter set forth, wherever used in this article, shall have the respective meanings hereinafter ascribed to them:

- (1) 1967 DOCKS AMENDMENT. Amendment 274 of the Constitution of Alabama.
- (2) 1957 DOCKS AMENDMENT. Amendment 116 of the Constitution of Alabama.
- (3) THE STATE. The State of Alabama.
- (4) THE DEPARTMENT. The Alabama State Docks Department and any department or agency of the state that may succeed to its duties.
- (5) FACILITIES. Elevators, warehouses, docks, water and rail terminals, wharves, piles, quays, compresses, storm haven facilities for all types of watercraft, channels between navigable waterways of the state for the purpose of connecting such waterways and aiding the use thereof, and other related structures, facilities and improvements, that may be needed for the convenient use of the same.
- (6) 1957 DOCKS ACT. Article 1 of this chapter.
- (7) 1959 DOCKS ACT. Article 2 of this chapter.
- (8) 1961 DOCKS ACT. Article 3 of this chapter.
- (9) 1963 DOCKS ACT. Article 4 of this chapter.
- (10) THE BONDS. Those issued hereunder.
- (11) UNIT OF DEVELOPMENT. Any one or more facilities acquired pursuant to the provisions of either this article or the 1957 Docks Act, or the 1959 Docks Act, or the 1961 Docks Act, or the 1963 Docks Act which may be designated by the department as a unit of development for the purpose of this article; provided, that several facilities may be together designated as one unit of development only if they are contiguous to each other or closely related for purposes of use and operation.
- (12) FISCAL YEAR. The fiscal year of the department.
- (13) INLAND FACILITIES. All facilities at any time acquired or constructed pursuant to the provisions of the 1967 Docks Amendment or the 1957 Docks Amendment.
- (14) OPERATING DEFICIT OF THE INLAND FACILITIES. The sum, if any there be, by which the gross revenues derived from the operation of the inland facilities during any fiscal year may be exceeded by the total of all expenses, excluding any deductions for depreciation, incurred during the same fiscal year in the operation of the inland facilities and in the maintenance thereof in good operating condition.
- (15) PORT OF MOBILE FACILITIES. The facilities of all kinds known as the state docks owned by the state and operated by the department at the Port of Mobile.
- (16) SURPLUS REVENUES OF THE PORT OF MOBILE FACILITIES. The gross revenues derived from the operating of the Port of Mobile facilities remaining at the end of any fiscal year after there shall have been deducted therefrom all expenses (excluding any deductions for depreciation), incurred during

the same fiscal year in the operation of the Port of Mobile facilities and the maintenance thereof in good operating condition, and all payments required to be made during such fiscal year in order to comply with: a. Sinking fund requirements for the Alabama harbor improvement bonds at the time outstanding which were heretofore issued by the state for the development of the Port of Mobile facilities, b. the obligations and agreements on the part of the department under any lease agreement at the time in effect which may have theretofore been made by the department for the rental of facilities located or for use at the Port of Mobile, and c. the obligations and agreements on the part of the department which may have been made in any order of the department providing for issuance of any securities at the time outstanding which were theretofore issued by the department or by the state and for the payment of which revenues from the Port of Mobile facilities were pledged.

The definitions herein set forth include both the singular and the plural.

(Acts 1967, No. 268, p. 765, §1.)

Section 33-2-121

Facilities at additional cost of \$2,000,000.00 authorized.

In addition to the authority granted to the state by the provisions of any other law, the state is hereby expressly authorized and empowered, at an additional cost to the state of not exceeding \$2,000,000.00, in promoting and aiding the commercial flow of agricultural products within the state or in aid of commerce and use of the waterways of the state, to engage in works of internal improvement by promoting, developing, constructing, maintaining and operating within the state or along navigable streams and waterways now or hereafter existing within the state all manner of facilities, all pursuant to the provisions of the 1967 Docks Amendment. All such works, improvements and facilities shall always be and remain under the management and control of the department. The department shall be the agency of the state by which the state shall accomplish the acquisition, construction, maintenance and operation of facilities hereunder and shall, in general, accomplish the purposes of this article. The use of revenues derived from operation of facilities shall not be deemed incurring of cost by the state within the meaning of this section.

(Acts 1967, No. 268, p. 765, §2.)

Section 33-2-122

Authority to acquire, construct, maintain, etc., new facilities; completion of facilities acquired under earlier acts; plans and survey; approval of Governor; permit or consent from federal authorities.

The state, acting through the department, shall, in promoting and aiding the commercial flow of agricultural products within the state, or in aid of commerce and use of the waterways of the state, in engaging in the works of internal improvement authorized by this article, have the power to acquire, purchase, install, lease, construct, own, hold, maintain, equip, control and operate facilities of all kinds within the state or along navigable streams and waterways of the state, to the fullest extent practicable and to such extent as the department shall deem desirable or proper. The authority herein granted shall include the completion of any dock facilities originally acquired under the provisions of the 1957 Docks Act, the 1959 Docks Act, the 1961 Docks Act, or the 1963 Docks Act; and also the dredging of approaches to any

dock facilities, acquired, erected, maintained or operated pursuant to this article, or the 1957 Docks Act, the 1959 Docks Act, the 1961 Docks Act, or the 1963 Docks Act. Before the department shall exercise the authority vested in it hereby with respect to any facilities or any dredging of the approaches thereto, the department shall first submit plans, including estimates of cost, prepared by competent engineers or architects, and a survey made by competent independent and professional engineers showing the economic feasibility of the proposal envisaged by such plans, to the Governor for his approval or disapproval. In the event of the Governor's disapproval, the plans shall either be abandoned or be revised and again submitted to the Governor for his approval or disapproval. Prior to the commencement of any construction, dredging or other work hereunder for which a permit from, or consent of, any United States authorities may be required by law, the department shall obtain the requisite permit or consent.

(Acts 1967, No. 268, p. 765, §3.)

Section 33-2-123

Authority, etc., of department under article cumulative.

All administration, supervision, authority and responsibility under this article and operations conducted hereunder, vested in the department, shall be in addition to all powers, duties and authority conferred on the department by any other statute, it being the intent of this article that the authority, powers, responsibilities and duties imposed by this article shall be in addition to and supplemental of the powers, authority, responsibilities and duties conferred or imposed on the department by any other laws of the state.

(Acts 1967, No. 268, p. 765, §4.)

Section 33-2-124

How property and rights-of-way may be acquired; eminent domain proceedings.

In acquiring rights-of-way and property necessary for the construction of facilities and convenient approaches thereto in furtherance of the purposes of this article, the department shall have the power to acquire same by gift, lease, purchase, negotiation or condemnation. The department shall have all powers with respect to the condemnation of properties for the purposes of this article that were granted to that department in the 1957 Docks Act; and the exercise of such powers hereunder shall be subject to all limitations and conditions prescribed in the 1957 Docks Act.

(Acts 1967, No. 268, p. 765, §5.)

Section 33-2-125

Department may contract current indebtedness.

In any operations conducted under this article, the department may contract such current indebtedness as is necessarily incident to the progress of the work in accordance with the terms of this article.

(Acts 1967, No. 268, p. 765, §6.)

Section 33-2-126

General provisions relative to inland facilities bonds.

In order to provide funds for the purposes of this article, there are hereby authorized to be sold and issued bonds of the state not exceeding \$2,000,000.00 in aggregate principal amount, under and subject to the provisions hereinafter set forth. The bonds shall be designated as inland facilities bonds of the state. The bonds shall be general obligations of the state for payment of the principal of and interest on which the full faith and credit of the state are hereby irrevocably pledged. The bonds may be issued from time to time in one or more series, shall bear an appropriate series designation, shall be in such form and denominations and of such tenor and maturities, shall bear such rate or rates of interest payable in such manner, may contain provisions for redemption prior to maturity, and may contain other provisions not inconsistent herewith, all as shall be set forth in an order or resolution of the department; provided, that the first installment of principal of bonds of each series must mature not later than 10 years from the date of such series, and the last installment of principal of bonds of such series shall mature not later than 30 years from such date; and, provided further, that any of the bonds having a stated maturity more than 10 years after its date shall be made subject to redemption at the option of the state at the end of the tenth year after the date of such bond and on any interest payment date thereafter under such terms and conditions as may be provided in the order or resolution whereunder such bond is authorized to be issued. The bonds shall be signed in the name of the state by either the facsimile or manually subscribed signatures of the Governor or the director of the department, and the Great Seal of the State, or a facsimile thereof, shall be affixed thereto or engraved, lithographed or imprinted thereon and attested by either the facsimile or manually subscribed signature of the Secretary of State; provided, that the signature on the bonds of any one of the said officials shall be subscribed manually thereon. The bonds may be in either bearer or registered form, either as to principal or interest or both. Interest on the bonds shall be payable semiannually, interest on coupon bonds being evidenced by interest coupons attached thereto, each of which coupons shall be authenticated by the facsimile signature of the State Treasurer imprinted thereon. Bonds issued in coupon form may be exchanged for fully registered bonds or bonds registered as to principal only. Coupon bonds and registered bonds shall be interchangeable; and upon issuance of a coupon bond for a registered bond, all matured and unearned coupons on said bond shall be by the State Treasurer first clipped from said bond and then cancelled. Regulations for the registration of bonds and for interchange of registered and coupon bonds shall be set forth in the order or resolution authorizing the issuance of such bonds. The State Treasurer shall maintain a record of all of the bonds issued hereunder, and shall maintain a separate record of all of the bonds that are registered, including a record of the names and addresses of the registered holders thereof. No order or resolution providing for the authorization or sale of any of the bonds shall become effective until approved by the Governor. The action of the department in adopting an order or resolution authorizing the sale of any of the bonds, and the action of the Governor in approving such order or resolution, shall be conclusive evidence that the funds to be derived from the bonds so authorized to be sold are actually needed at the time for the purposes for which bonds are herein authorized to be issued and that the proceeds of such bonds are intended only for such purposes.

(Acts 1967, No. 268, p. 765, §7.)

Section 33-2-127

Requirements for sale of bonds.

The bonds must be sold only at public sale, either on sealed bids or at public auction, to the bidder whose bid reflects the lowest net interest cost to the state for the bonds being sold, computed to their respective maturities; provided, that if no bid acceptable to the department and the Governor is received all bids may be rejected. Notice of each such sale shall be given by publication in either a financial journal or a financial newspaper published in the City of New York, New York, and also by publication in a newspaper published in the state which is customarily published not less often than six days during each calendar week, each of which notices must be published at least one time not less than 10 days prior to the day fixed for the sale. The department may fix the terms and conditions under which each such sale may be held; provided, that none of the bonds may be sold for a price less than the face value thereof; and, provided further, that such terms and conditions shall not conflict with any of the requirements of this article.

(Acts 1967, No. 268, p. 765, §8.)

Section 33-2-128

Disposition of proceeds from sale of bonds.

The proceeds from the sale of any of the bonds (other than refunding bonds) shall be paid into the State Treasury and kept by the State Treasurer in a separate account and paid over to the secretary-treasurer of the department from time to time in such amounts as shall be directed by the Governor and the money so paid over to the secretary-treasurer of the department shall be held and used only for the accomplishment of the purposes of this article, and specifically for payment of the cost of acquiring, by construction or otherwise, maintaining and operating, or any of them, in promoting and aiding in the commercial flow of agricultural products within the state or in aid of commerce and use of the waterways of the state, all manner of elevators, facilities, warehouses, docks, water and rail terminals and other structures and facilities and improvements needful for the convenient use of the same. The cost of acquiring any facilities that may be acquired with the proceeds of bonds issued under this article shall be deemed to include, inter alia, (1) fees of engineers and attorneys and other expenses incidental to such acquisition; and (2) the cost of issuing those of the bonds that may be issued to provide funds for such acquisition. The proceeds derived from the sale of any refunding bonds issued hereunder shall be used only as provided in Section 33-2-131.

(Acts 1967, No. 268, p. 765, §9.)

Section 33-2-129

Appropriation for payment of principal and interest on bonds.

There is hereby appropriated for the payment of the principal of and interest on any bonds issued hereunder, or under the 1957 Docks Act, the 1959 Docks Act, the 1961 Docks Act, or the 1963 Docks Act, so much as may be necessary for that purpose of any moneys in the general fund of the state not otherwise appropriated.

(Acts 1967, No. 268, p. 765, §10.)

Section 33-2-130

Application of revenues from inland facilities.

The gross revenues derived from the operation of each unit of development comprising a part of the inland facilities shall be applied for the following purposes in the following order: (1) Payment of the expenses of operating and maintaining in good operating condition the unit of development from which such revenues are derived; and (2) payment of the expenses of operating and maintaining in good condition any other unit of development or units of development comprising a part of the inland facilities. Whenever the gross revenues received by the department from the inland facilities during a fiscal year shall be greater than the expenses of operating and maintaining in good operating condition the inland system during the fiscal year, then the revenues from the inland system remaining at the end of the fiscal year after compliance with the first sentence of this section shall be applied for that one or more or all of the following purposes that may be designated by the department, the sums to be so applied to be in such amounts and to be applied in such manner as the department may designate: (1) Retention of such amounts, for use as working capital for the inland facilities as the department may determine to be reasonably necessary for such purpose; (2) payment of the cost of capital and improvements and additions to the inland facilities; and (3) payment at their respective maturities of the principal of or interest on any bonds theretofore issued and at the time outstanding under the 1957 Docks Amendment, or under this article; provided, however, that the revenues from the operation of any unit of development the acquisition or construction of which was financed wholly or in part with bonds issued under the 1957 Docks Act shall, to such extent as may be required by the provisions of the 1957 Docks Act, be applied for payment at their respective maturities of those bonds issued under the 1957 Docks Act for payments into the sinking fund created in that act, and the revenues from the operation of any unit of development the acquisition or construction of which was financed wholly or in part with bonds issued under the 1959 Docks Act shall, to such extent as may be required by the provisions of the 1959 Docks Act, be applied for payment at their respective maturities of the principal of and the interest on those bonds issued under the 1959 Docks Act and for payments into the sinking fund created in that act, and the revenues from the operation of any unit of development the acquisition or construction of which was financed wholly or in part with bonds issued under the 1961 Docks Act shall, to such extent as may be required by the provisions of the 1961 Docks Act, be applied for payment at their respective maturities of the principal of and the interest on those bonds issued under the 1961 Docks Act and for payments into the sinking fund created in that act.

(Acts 1967, No. 268, p. 765, §11.)

Section 33-2-131

Refunding bonds and investments.

The state may at any time, and from time to time, issue refunding bonds for the purpose of refunding the principal of and the interest on any unmatured bonds of the state then outstanding which were theretofore issued under any one or more of this article, or the 1957 Docks Act, the 1959 Docks Act, the 1961 Docks Act, or the 1963 Docks Act. The proceeds from the sale of such refunding bonds shall be paid to the State Treasurer and disbursed on order or resolution of the department solely to refund and retire those bonds for the refunding of which such refunding bonds are authorized to be issued, and to pay the expenses

incurred in such refunding; provided, that pending the time such refunding can be consummated, such proceeds may be invested as herein authorized. All provisions of this article pertaining to bonds issued under this article that are not inconsistent with the provisions of this section shall, to the extent applicable, also apply to the refunding bonds issued hereunder. The principal proceeds from the sale of any bonds issued hereunder, when not needed for the purposes for which such bonds were issued, and any other moneys received hereunder, when not needed for the purposes for which such moneys may be used, may at the discretion of the director, with the approval of the Governor, be invested in direct general obligations of the United States of America and the earnings on any investment so made shall be used in the same manner that the moneys so invested are herein provided to be used.

(Acts 1967, No. 268, p. 765, §12.)

Section 33-2-132

Separate records as to each unit of development.

The department shall establish and maintain a separate record with respect to each unit of development that may have been or may be acquired, constructed or operated in whole or in part under the provisions of this article, or under the 1957 Docks Act, the 1959 Docks Act, the 1961 Docks Act, or the 1963 Docks Act. Each such separate record shall show: (1) the total amount of the capital investment in each such unit of development, including the amount of such capital investment derived from the proceeds of the bonds issued hereunder, or under the 1957 Docks Act, the 1959 Docks Act, the 1961 Docks Act, or the 1963 Docks Act; and the amount, if any, of the said capital investment derived from any other source; (2) the expenses of operating each such unit of development; and (3) the gross revenues derived from the operation of each such unit of development. In the event any proceeds from bonds issued either under this article, or under the 1957 Docks Act, the 1959 Docks Act, the 1961 Docks Act, or the 1963 Docks Act shall be used to pay any of the operating expenses of any unit of development, the amount of bond proceeds so used shall be deemed a part of the capital investment in such unit of development.

(Acts 1967, No. 268, p. 765, §13.)

Section 33-2-133

Use of surplus revenues of Port of Mobile facilities to pay operating deficit.

If at the end of any fiscal year there are surplus revenues of the Port of Mobile facilities with respect to that fiscal year and an operating deficit of the inland facilities with respect to the fiscal year, then any such surplus revenues shall be used to meet any such operating deficit.

(Acts 1967, No. 268, p. 765, §14.)

Section 33-2-134

Rates and charges for use of facilities.

The department shall have the right and power to fix from time to time and to collect reasonable rates and charges for services rendered by, and for the use of, facilities acquired, constructed or operated pursuant to the provisions of this article.

(Acts 1967, No. 268, p. 765, §15.)

Section 33-2-135

Revocation of licenses to occupy state property.

Any license heretofore granted by the state, either expressly or by implication, permitting the upland owner to occupy any part of the space between the high-water mark and the low-water mark of any navigable waterway of this state, or along the banks of any river, stream or waterway of this state, may be revoked or cancelled by the department in the same manner and subject to the same conditions as those set forth in section 33-2-16.

(Acts 1967, No. 268, p. 765, §16.)

Section 33-2-136

Bonds and interest exempt from taxation.

Any bonds issued pursuant to the authority of this article and the interest thereon shall be exempt from all taxation by the state of Alabama or any political subdivision thereof.

(Acts 1967, No. 268, p. 765, §17.)

Article 6 1969 Provisions for Facilities Along Inland Waterways.

Section 33-2-150

Definitions.

The words and phrases hereinafter set forth, wherever used in this article, shall have the respective meanings hereinafter ascribed to them:

- (1) 1969 DOCKS AMENDMENT. Amendment 288 of the Constitution of Alabama.
- (2) 1967 DOCKS AMENDMENT. Amendment 274 of the Constitution of Alabama.
- (3) 1957 DOCKS AMENDMENT. Amendment 116 of the Constitution of Alabama.
- (4) THE STATE. The State of Alabama.
- (5) THE DEPARTMENT. The Alabama State Docks Department and any department or agency of the state that may succeed to its duties.
- (6) FACILITIES. Elevators, warehouses, docks, water and rail terminals, wharves, piles, quays, compresses, storm haven facilities for all types of watercraft, channels between navigable waterways of the state for the purpose of connecting such waterways and aiding the use thereof, and other related structures, facilities and improvements, that may be needed for the convenient use of the same.

- (7) 1957 DOCKS ACT. Article 1 of this chapter.
- (8) 1959 DOCKS ACT. Article 2 of this chapter.
- (9) 1961 DOCKS ACT. Article 3 of this chapter.
- (10) 1963 DOCKS ACT. Article 4 of this chapter.
- (11) 1967 DOCKS ACT. Article 5 of this chapter.
- (12) THE BONDS. Those issued hereunder.
- (13) UNIT OF DEVELOPMENT. Any one or more facilities acquired pursuant to the provisions of either this article or the 1957 Docks Act, the 1959 Docks Act, the 1961 Docks Act, the 1963 Docks Act, or the 1967 Docks Act, which may be designated by the department as a unit of development for the purpose of this article; provided, that several facilities may be together designated as one unit of development only if they are contiguous to each other or closely related for the purposes of use and operation.
- (14) FISCAL YEAR. The fiscal year of the department.
- (15) INLAND FACILITIES. All facilities at any time acquired or constructed pursuant to the provisions of the 1969 Docks Amendment, the 1967 Docks Amendment or the 1957 Docks Amendment.
- (16) OPERATING DEFICIT OF THE INLAND FACILITIES. The sum, if any there be, by which the gross revenues derived from the operation of the inland facilities during any fiscal year may be exceeded by the total of all expenses, excluding any deductions for depreciation, incurred during the same fiscal year in the operation of the inland facilities and in the maintenance thereof in good operating condition.
- (17) PORT OF MOBILE FACILITIES. The facilities of all kinds known as the state docks owned by the state and operated by the department at the Port of Mobile.
- (18) SURPLUS REVENUES OF THE PORT OF MOBILE FACILITIES. The gross revenues derived from operating the Port of Mobile facilities remaining at the end of any fiscal year after there shall have been deducted therefrom all expenses (excluding any deductions for depreciation), incurred during the same fiscal year in the operation of the Port of Mobile facilities and the maintenance thereof in good operating condition, and all payments required to be made during such fiscal year in order to comply with: a. sinking fund requirements for the Alabama harbor improvement bonds at the time outstanding which were heretofore issued by the state for the development of the Port of Mobile facilities, b. the obligations and agreements on the part of the department under any lease agreement at the time in effect which may have theretofore been made by the department for the rental of facilities located or for use at the Port of Mobile, and c. the obligations and agreements on the part of the department which may have been made in any order of the department providing for issuance of any securities at the time outstanding which were theretofore issued by the department or by the state and for the payment of which revenues from the Port of Mobile facilities were pledged.

The definitions herein set forth include both the singular and the plural.

(Acts 1969, No. 472, p. 917, §1.)

Section 33-2-151

Facilities at additional cost of \$10,000,000.00 authorized.

In addition to the authority granted to the state by the provisions of any other law, the state is hereby expressly authorized and empowered, at an additional cost to the state of not exceeding \$10,000,000.00, in promoting and aiding the commercial flow of agricultural products within the state or in aid of commerce and use of the waterways of the state, to engage in works of internal improvement by promoting, developing, constructing, maintaining and operating within the state or along navigable streams and waterways now or hereafter existing within the state, all manner of facilities, all pursuant to the provisions of the 1969 Docks Amendment. All such works, improvements and facilities shall always be and remain under the management and control of the department. The department shall be the agency of the state by which the state shall accomplish the acquisition, construction, maintenance and operation of facilities hereunder and shall, in general, accomplish the purposes of this article. The use of revenues derived from operation of facilities shall not be deemed incurring of cost by the state within the meaning of this section.

(Acts 1969, No. 472, p. 917, §2.)

Section 33-2-152

Authority to acquire, construct, maintain, etc., new facilities; completion of facilities acquired under earlier acts; plans and survey; approval of Governor; permit or consent from federal authorities.

The state, acting through the department, shall, in promoting and aiding the commercial flow of agricultural products within the state, or in aid of commerce and use of the waterways of the state, in engaging in the works of internal improvement authorized by this article, have the power to acquire, purchase, install, lease, construct, own, hold, maintain, equip, control and operate facilities of all kinds within the state or along navigable streams and waterways of the state, to the fullest extent practicable and to such extent as the department shall deem desirable or proper. The authority herein granted shall include the completion of any dock facilities originally acquired under the provisions of the 1957 Docks Act, the 1959 Docks Act, the 1961 Docks Act, the 1963 Docks Act, or the 1967 Docks Act; and also the dredging of approaches to any dock facilities, acquired, erected, maintained or operated pursuant to this article, or the 1957 Docks Act, the 1959 Docks Act, the 1961 Docks Act, the 1963 Docks Act, or the 1967 Docks Act. Before the department shall exercise the authority vested in it hereby with respect to any facilities or any dredging of the approaches thereto, the department shall first submit plans, including estimates of cost, prepared by competent engineers or architects, and a survey made by competent independent and professional engineers showing the economic feasibility of the proposal envisaged by such plans, to the Governor for his approval or disapproval; and, in the event of the Governor's disapproval, the plans shall either be abandoned or be revised and again submitted to the Governor for his approval or disapproval. Prior to the commencement of any construction, dredging or other work hereunder for which a permit from, or consent of, any United States authorities may be required by law, the department shall obtain the requisite permit or consent.

(Acts 1969, No. 472, p. 917, §3.)

Section 33-2-153

Authority, etc., of department under article cumulative.

All administration, supervision, authority and responsibility under this article and operations conducted hereunder, vested in the department, shall be in addition to all powers, duties and authority conferred on the department by any other statute, it being the intent of this article that the authority, powers, responsibilities and duties imposed by this article shall be in addition to and supplemental of the powers, authority, responsibilities and duties conferred or imposed on the department by any other laws of the state.

(Acts 1969, No. 472, p. 917, §4.)

Section 33-2-154

How property and rights-of-way may be acquired; eminent domain proceedings.

In acquiring rights-of-way and property necessary for the construction of facilities and convenient approaches thereto in furtherance of the purposes of this article, the department shall have the power to acquire same by gift, lease, purchase, negotiation or condemnation. The department shall have all powers with respect to the condemnation of properties for the purposes of this article that were granted to that department in the 1957 Docks Act; and the exercise of such powers hereunder shall be subject to all limitations and conditions prescribed in the 1957 Docks Act.

(Acts 1969, No. 472, p. 917, §5.)

Section 33-2-155

Department may contract current indebtedness.

In any operations conducted under this article, the department may contract such current indebtedness as is necessarily incident to the progress of the work in accordance with the terms of this article.

(Acts 1969, No. 472, p. 917, §6.)

Section 33-2-156

General provisions relative to inland facilities bonds.

In order to provide funds for the purposes of this article, there are hereby authorized to be sold and issued bonds of the state not exceeding \$10,000,000.00 in aggregate principal amount, under and subject to the provisions hereinafter set forth. The bonds shall be designated as inland facilities bonds of the state, series 1970. The bonds shall be general obligations of the state for payment of the principal of and interest on which the full faith and credit of the state are hereby irrevocably pledged. The bonds may be issued from time to time in one or more series, shall bear an appropriate series designation, shall be in such form and denominations and of such tenor and maturities, shall bear such rate of interest payable in such manner, may contain provisions for redemption prior to maturity, and may contain other provisions not

inconsistent herewith, all as shall be set forth in an order or resolution of the department; provided, that the first installment of principal of bonds of each series must mature not later than 10 years from the date of such series and the last installment of principal of bonds of such series shall mature not later than 30 years from such date; and, provided further, that any of the bonds having a stated maturity more than 10 years after its date shall be made subject to redemption at the option of the state at the end of the tenth year after the date of such bond and on any interest payment date thereafter under such terms and conditions as may be provided in the order or resolution whereunder such bond is authorized to be issued. The bonds shall be signed in the name of the state by either the facsimile or manually subscribed signatures of the Governor or the director of the department, and the Great Seal of the State, or a facsimile thereof, shall be affixed thereto or engraved, lithographed or imprinted thereon and attested by either the facsimile or manually subscribed signature of the Secretary of State; provided, that the signature on the bonds of any one of the said officials shall be subscribed manually thereon. The bonds may be in either bearer or registered form, either as to principal or interest or both. Interest on the bonds shall be payable semiannually, interest on coupon bonds being evidenced by interest coupons attached thereto, each of which coupons shall be authenticated by the facsimile signature of the State Treasurer imprinted thereon. Bonds issued in coupon form may be exchanged for fully registered bonds or bonds registered as to principal only. Coupon bonds and registered bonds shall be interchangeable; and upon issuance of a coupon bond for a registered bond, all matured and unearned coupons on said bond shall be by the State Treasurer first clipped from said bond and then cancelled. Regulations for the registration of bonds and for interchange of registered and coupon bonds shall be set forth in the order or resolution authorizing the issuance of such bonds. The State Treasurer shall maintain a record of all of the bonds issued hereunder, and shall maintain a separate record of all of the bonds that are registered, including a record of the names and addresses of the registered holders thereof. No order or resolution providing for the authorization or sale of any of the bonds shall become effective until approved by the Governor. The action of the department in adopting an order or resolution authorizing the sale of any of the bonds and the action of the Governor in approving such order or resolution shall be conclusive evidence that the funds to be derived from the bonds so authorized to be sold are actually needed at the time for the purposes for which bonds are herein authorized to be issued and that the proceeds of such bonds are intended only for such purposes.

(Acts 1969, No. 472, p. 917, §7.)

Section 33-2-157

Requirements for sale of bonds.

The bonds must be sold only at public sale, either on sealed bids or at public auction, to the bidder whose bid reflects the lowest net interest cost to the state for the bonds being sold, computed to their respective maturities; provided, that if no bid acceptable to the department and the Governor is received all bids may be rejected. Notice of each such sale shall be given by publication in either a financial journal or a financial newspaper published in the City of New York, New York, and also by publication in a newspaper published in the state which is customarily published not less often than six days during each calendar week, each of which notices must be published at least one time not less than 10 days prior to the day fixed for the sale. The department may fix the terms and conditions under which each such sale may be held; provided, that none of the bonds may be sold for a price less than the face value thereof; and,

provided further, that such terms and conditions shall not conflict with any of the requirements of this article.

(Acts 1969, No. 472, p. 917, §8.)

Section 33-2-158

Disposition of proceeds from sale of bonds.

The proceeds from the sale of any of the bonds (other than refunding bonds) shall be paid into the State Treasury and kept by the State Treasurer in a separate account and paid over to the secretary-treasurer of the department from time to time in such amounts as shall be directed by the Governor and the money so paid over to the secretary-treasurer of the department shall be held and used only for the accomplishment of the purposes of this article, and specifically for payment of the cost of acquiring, by construction or otherwise, maintaining and operating, or any of them, in promoting and aiding in the commercial flow of agricultural products within the state or in aid of commerce and use of the waterways of the state, all manner of elevators, facilities, warehouses, docks, water and rail terminals and other structures and facilities and improvements needful for the convenient use of the same. The cost of acquiring any facilities that may be acquired with the proceeds of bonds issued under this article shall be deemed to include, inter alia, (1) fees of engineers and attorneys and other expenses incidental to such acquisition; and (2) the cost of issuing those of the bonds that may be issued to provide funds for such acquisition. The proceeds derived from the sale of any refunding bonds issued hereunder shall be used only as provided in section 33-2-161.

(Acts 1969, No. 472, p. 917, §9.)

Section 33-2-159

Appropriation for payment of principal and interest on bonds.

There is hereby appropriated for the payment of the principal of and interest on any bonds issued hereunder, or under the 1957 Docks Act, the 1959 Docks Act, the 1961 Docks Act, the 1963 Docks Act, or the 1967 Docks Act, so much as may be necessary for that purpose of any moneys in the general fund of the state not otherwise appropriated.

(Acts 1969, No. 472, p. 917, §10.)

Section 33-2-160

Application of revenues from inland facilities.

The gross revenues derived from the operation of each unit of development comprising a part of the inland facilities shall be applied for the following purposes in the following order: (1) Payment of the expenses of operating and maintaining in good operating condition the unit of development from which such revenues are derived; and (2) payment of the expenses of operating and maintaining in good condition any other unit of development or units of development comprising a part of the inland facilities. Whenever the gross revenues received by the department from the inland facilities during a fiscal year shall be greater than the expenses of operating and maintaining in good operating condition the inland

system during the fiscal year, then the revenues from the inland system remaining at the end of the fiscal year after compliance with the first sentence of this section shall be applied for that one or more or all of the following purposes that may be designated by the department, the sums to be so applied to be in such amounts and to be applied in such manner as the department may designate: (1) Retention of such amounts for use as working capital for the inland facilities as the department may determine to be reasonably necessary for such purpose; (2) payment of the cost of capital and improvements and additions to the inland facilities; and (3) payment at their respective maturities of the principal of or interest on any bonds theretofore issued and at the time outstanding under the 1957 Docks Amendment, the 1967 Docks Amendment, or under this article; provided, however, that the revenues from the operation of any unit of development the acquisition or construction of which was financed wholly or in part with bonds issued under the 1957 Docks Act shall, to such extent as may be required by the provisions of the 1957 Docks Act, be applied for payment at their respective maturities of those bonds issued under the 1957 Docks Act for payments into the sinking fund created in that act, and the revenues from the operation of any unit of development the acquisition or construction of which was financed wholly or in part with bonds issued under the 1959 Docks Act shall, to such extent as may be required by the provisions of the 1959 Docks Act, be applied for payment at their respective maturities of the principal of and the interest on those bonds issued under the 1959 Docks Act and for payments into the sinking fund created in that act, and the revenues from the operation of any unit of development the acquisition or construction of which was financed wholly or in part with bonds issued under the 1961 Docks Act shall, to such extent as may be required by the provisions of the 1961 Docks Act, be applied for payment at their respective maturities of the principal of and the interest on those bonds issued under the 1961 Docks Act and for payments into the sinking fund created in that act.

(Acts 1969, No. 472, p. 917, §11.)

Section 33-2-161

Refunding bonds and investments.

The state may at any time, and from time to time, issue refunding bonds for the purpose of refunding the principal of and the interest on any unmatured bonds of the state then outstanding which were theretofore issued under any one or more of this article, or the 1957 Docks Act, the 1959 Docks Act, the 1961 Docks Act, the 1963 Docks Act, or the 1967 Docks Act. The proceeds from the sale of such refunding bonds shall be paid to the State Treasurer and disbursed on order or resolution of the department solely to refund and retire those bonds for the refunding of which such refunding bonds are authorized to be issued, and to pay the expenses incurred in such refunding; provided, that pending the time such refunding can be consummated such proceeds may be invested as herein authorized. All provisions of this article pertaining to bonds issued under this article that are not inconsistent with the provisions of this section shall, to the extent applicable, also apply to the refunding bonds issued hereunder. The principal proceeds from the sale of any bonds issued hereunder, when not needed for the purposes for which such bonds were issued, and any other moneys received hereunder, when not needed for the purposes for which such moneys may be used, may, at the discretion of the director, with the approval of the Governor, be invested in direct general obligations of the United States of America and the earnings on any investment so made shall be used in the same manner that the moneys so invested are herein provided to be used.

(Acts 1969, No. 472, p. 917, §12.)

Section 33-2-162

Separate records as to each unit of development.

The department shall establish and maintain a separate record with respect to each unit of development that may have been or may be acquired, constructed or operated in whole or in part under the provisions of this article, or under the 1957 Docks Act, the 1959 Docks Act, the 1961 Docks Act, the 1963 Docks Act or the 1967 Docks Act. Each such separate record shall show: (1) The total amount of the capital investment in each such unit of development, including the amount of such capital investment derived from the proceeds of the bonds issued hereunder, or under the 1957 Docks Act, the 1959 Docks Act, the 1961 Docks Act, the 1963 Docks Act or the 1967 Docks Act; and the amount, if any, of the said capital investment derived from any other source; (2) the expense of operating each such unit of development; and (3) the gross revenues derived from the operation of each such unit of development. In the event any proceeds from bonds issued either under this article, or under the 1957 Docks Act, the 1959 Docks Act, the 1961 Docks Act, the 1963 Docks Act or the 1967 Docks Act shall be used to pay any of the operating expenses of any unit of development, the amount of bond proceeds so used shall be deemed a part of the capital investment in such unit of development.

(Acts 1969, No. 472, p. 917, §13.)

Section 33-2-163

Use of surplus revenues of Port of Mobile facilities to pay operating deficit.

If at the end of any fiscal year there are surplus revenues of the Port of Mobile facilities with respect to that fiscal year and an operating deficit of the inland facilities with respect to that fiscal year, then any such surplus revenues shall be used to meet any such operating deficit.

(Acts 1969, No. 472, p. 917, §14.)

Section 33-2-164

Rates and charges for use of facilities.

The department shall have the right and power to fix from time to time and to collect reasonable rates and charges for services rendered by, and for the use of, facilities acquired, constructed or operated pursuant to the provisions of this article.

(Acts 1969, No. 472, p. 917, §15.)

Section 33-2-165

Revocation of licenses to occupy state property.

Any license heretofore granted by the state, either expressly or by implication, permitting the upland owner to occupy any part of the space between the high-water mark and the low-water mark of any navigable waterway of this state, or along the banks of any river, stream or waterway of this state, may be revoked or cancelled by the department in the same manner and subject to the same conditions as those set forth in Section 33-2-16.

(Acts 1969, No. 472, p. 917, §16.)

Section 33-2-166

Bonds and interest exempt from taxation.

Any bonds issued pursuant to the authority of this article and the interest thereon shall be exempt from all taxation by the State of Alabama or any political subdivision thereof.

(Acts 1969, No. 472, p. 917, §17.)

Article 7 Acquisition, Construction, Financing, and Improvement of State Docks Facilities.

Section 33-2-180

Definitions.

Where used in this article the following words and terms shall be given the following respective meanings unless the context hereof clearly indicates otherwise:

- (1) CODE. The Code of Alabama 1975, as amended.
- (2) DEPARTMENT. Alabama State Docks Department created in Chapter 1 of Title 33.
- (3) DIRECTOR. The Director of State Docks provided for in Section 33-1-3.
- (4) DOCKS FACILITIES. Docks and all kinds of docks facilities, including elevators, compresses, conveyors, warehouses, water and rail terminals, bulk handling facilities, coal handling facilities, grain elevator facilities, wharves, piles, quays, cold storage facilities, loading and unloading facilities, and other related structures, facilities, equipment, property and improvements of every kind needful for the convenient use of same, in aid of commerce and use of the waterways of the state, now or hereafter existing, that are now or hereafter owned or held, are or are to be under the management and control of the department and are located along navigable rivers, streams or waterways now or hereafter existing within the state.
- (5) DOCKS FACILITIES REVENUES. All gross revenues of the department derived from charges made by the department for all services provided by the department to, and for the use of docks facilities by, persons using any of the docks facilities, including all special handling and processing charges, tariffs, surcharges and other fees, but excluding any amounts received by the department from state taxes or licenses or from appropriations to the department made by the state.
- (6) DOCKS FACILITIES REVENUE BONDS. The revenue bonds authorized in Section 33-2-181 to be sold and issued by the department.
- (7) GOVERNMENT SECURITIES. Any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any federal agency to the extent such obligations are unconditionally guaranteed

by the United States of America and any certificates or any other evidences of an ownership interest in such obligations of, or unconditionally guaranteed by, the United States of America or in specified portions thereof (which may consist of the principal thereof or the interest thereon).

(8) INDUSTRIAL BOARD BONDS. Those bonds of the industrial development board, dated February 1, 1981, and issued to provide funds for the construction, lease and purchase of the industrial board project and for other purposes related thereto.

(9) INDUSTRIAL BOARD PROJECT. Certain additions to the docks facilities financed through the issuance of the industrial board bonds and leased to the department by the industrial development board pursuant to a lease and agreement dated as of February 1, 1981.

(10) INDUSTRIAL DEVELOPMENT BOARD. The Industrial Development Board of the City of Mobile, Alabama, a public corporation and instrumentality that was organized and is existing under the provisions of Act No. 648 enacted at the 1949 Regular Session of the Legislature, as amended (codified as §§ 11-54-80 through 11-54-123).

(11) LEGISLATURE. The Legislature of Alabama.

(12) OUTSTANDING BONDS. Any docks facilities revenue bonds issued under this article, any refunding bonds issued under this article, the Seaport facility bonds, the state general obligation docks bonds and the industrial board bonds, at any time issued and outstanding.

(13) REFUNDING BONDS. Those refunding bonds authorized in Section 33-2-182 to be sold and issued by the department.

(14) SEAPORT FACILITY BONDS. The department's seaport facility revenue and special excise tax bonds, dated March 1, 1972, issued pursuant to Act No. 64 enacted at the 1971 First Special Session of the Legislature, as amended, and the department's seaport facility revenue bonds, Series 1978, dated November 1, 1978, issued pursuant to Act No. 703 enacted at the 1976 Regular Session of the Legislature, as amended.

(15) STATE. The State of Alabama.

(16) STATE GENERAL OBLIGATION DOCKS BONDS. The general obligation docks expansion bonds of the state, dated March 1, 1966, the general obligation docks capital extension bonds of the state, dated March 1, 1968, and the general obligation docks facilities bonds, Series 1970, of the state, dated September 1, 1970.

(17) STATE TREASURER. The State Treasurer of the state.

(Acts 1984, No. 84-412, p. 963, §1.)

Section 33-2-182

Authorization to issue refunding bonds.

Subject to the provisions contained in this article, the department may from time to time sell and issue its refunding bonds for the purpose of refunding any or all of the outstanding bonds then outstanding,

together with any interest thereon whether due and unpaid at the time of issuance of such refunding bonds or not, and with any premium that may be necessary to be paid in order to redeem or retire those outstanding bonds proposed to be refunded.

In the discretion of the department, with the approval of the Governor, refunding bonds may be issued in exchange for outstanding bonds or they may be sold and the proceeds thereof applied to the purchase, redemption or payment of outstanding bonds. Refunding bonds to be issued in exchange for outstanding bonds may be issued in such principal amount as the department shall determine. Refunding bonds to be sold may be issued in such principal amount as shall be determined by the department, provided that such refunding bonds shall not be sold and issued in an aggregate principal amount exceeding the sum of (i) the outstanding principal amount of the outstanding bonds to be refunded, (ii) the interest accrued and to accrue on the outstanding bonds to be refunded until the respective maturities thereof, or if the outstanding bonds to be refunded are to be called for redemption (either on the earliest date on which under their terms they may be redeemed or some later date or dates), the interest accrued and to accrue thereon until the date or dates on which they are to be called for redemption, (iii) the amount of any redemption premium required, by the terms of the outstanding bonds, to be paid as a condition to their redemption prior to their respective maturities, (iv) the amount, if any, required to be deposited in an interest account or a reserve account, and (v) the amount of any expenses (actual or estimated) of such refunding, including without limitation, the expenses of selling and issuing the refunding bonds (including any discount reflected in the purchase price thereof paid to the department), bond insurance premiums, fees and disbursements of attorneys, accountants, financial advisors and other consultants, fees and disbursements of trustees and escrow agents, printing costs and other customary bond issuance expenses.

(Acts 1984, No. 84-412, p. 963, §3.)

Section 33-2-181

Authorization to issue docks facilities revenue bonds.

The department, with the approval of the Governor, may from time to time and at any time, issue its docks facilities revenue bonds in such aggregate principal amounts as the department, with the approval of the Governor, may determine to be advisable, for the purpose of providing funds for the acquisition, construction, equipment or improvement of docks facilities, together with the expenses incident to the authorization, issuance and sale of such docks facilities revenue bonds. The cost of so acquiring, constructing, equipping and improving such docks facilities shall be deemed to include interest that will either accrue or become payable on the docks facilities revenue bonds issued therefor during the period required for the acquisition, construction, equipment and improvement of such docks facilities, plus a period not exceeding six months after the completion thereof. The powers conferred on the department by this article are in addition to all powers heretofore conferred on the department by the Constitution and laws of Alabama.

(Acts 1984, No. 84-412, p. 963, §2.)

Section 33-2-183

Docks facilities revenue bonds and refunding bonds - Generally.

The docks facilities revenue bonds and the refunding bonds shall be in such forms and denominations and of such tenor and maturities (either serial or term or a combination thereof), provided that no docks facilities revenue bond or refunding bond shall have a specified maturity date, including sinking fund redemptions, later than 30 years after its date, shall bear such rate or rates of interest (including a zero rate of interest) payable and evidenced in such manner, and may contain other provisions not inconsistent with this article, all as may be provided in the order or orders of the director in which the docks facilities revenue bonds or the refunding bonds, respectively, are authorized to be issued; provided, that no such order shall be valid without the written approval of the Governor.

Notwithstanding any other provision of this article to the contrary, the director may, in connection with the issuance of docks facilities revenue bonds and refunding bonds pursuant to this article, provide by order for places of payment (either within or without the state); registration provisions; exchange privileges; method of delivery; entering into contracts with banks and trust companies located either within or without the state to act as registrars, paying agents, transfer agents, depositories for safekeeping, agents for the delivery and payment of bonds, authenticating agents or otherwise; and covenants for the security and better marketability of the docks facilities revenue bonds and refunding bonds, including but not limited to the establishment of an interest account to be funded with the proceeds of docks facilities revenue bonds or refunding bonds for the payment of interest on such bonds, and the establishment of reserves or sinking funds to secure or to pay such docks facilities revenue bonds or refunding bonds, incident to or necessary or convenient to the purposes of the department and the provision for the investment of such interest accounts or reserves or sinking funds at the direction of the department. The department may department may, in the order or orders of the director under which any of the docks facilities revenue bonds or the refunding bonds are issued, retain an option to redeem all or any thereof at such redemption price or prices and after such notice or notices and on such terms and conditions and at such time or times as may be set forth in the said order or orders and as may be briefly recited on the docks facilities revenue bonds or the refunding bonds with respect to which such option of redemption is retained.

(Acts 1984, No. 84-412, p. 963, §4.)

Section 33-2-184

Docks facilities revenue bonds and refunding bonds - Execution.

The docks facilities revenue bonds and refunding bonds shall be signed by the director and attested by the secretary-treasurer of the department, and all interest coupons (if any) applicable to the docks facilities revenue bonds or refunding bonds shall be signed by the director; provided, that a facsimile of the signatures of either or both of said officers may be printed or otherwise reproduced on any of the docks facilities revenue bonds or refunding bonds in lieu of their being manually signed, and a facsimile of the director's signature may be printed or otherwise reproduced on any of the interest coupons in lieu of their being manually signed. The seal of the department shall be impressed on the docks facilities revenue bonds and refunding bonds, provided that a facsimile of the said seal may be printed or otherwise

reproduced on any of the docks facilities revenue bonds or refunding bonds in lieu of being manually impressed thereon.

(Acts 1984, No. 84-412, p. 963, §5.)

Section 33-2-185

Docks facilities revenue bonds and refunding bonds - Sale.

Docks facilities revenue bonds and refunding bonds may be sold by the department from time to time in series, and if sold in more than one series may all be authorized in one initial order of the director with the pledges therefor made in such initial order, notwithstanding that details applicable to each series may be specified in the respective orders under which such series are issued. Each series of the docks facilities revenue bonds or refunding bonds may be sold at public or private sale, as determined by the director, at such price or prices as the director shall determine, and if sold at public sale either on sealed bids or at public auction, to the bidder whose bid reflects the lowest true interest cost to the department for the series of the docks facilities revenue bonds or refunding bonds being sold, computed from the date of those at the time being sold to their respective maturities and taking into account any premium or discount named in the bid therefor; provided, that if in the event of public sale of the docks facilities revenue bonds or refunding bonds no bid acceptable to the department is received it may reject all bids. Notice or summary notice of each public sale shall be given by publication in either a financial journal or a financial newspaper published in the City of New York, New York, and also by publication in a newspaper published in the state which is customarily published not less than five days during each calendar week, each of which notices or summary notices must be published at least one time not less than 10 days prior to the date fixed for the sale. The director may fix the terms and conditions under which each such sale may be held; provided, that such terms and conditions shall not conflict with any of the requirements of this article. At least thirty (30) days prior to the publication of notice or summary notice of the public sale, the department shall notify the Governor, the Lieutenant Governor, the Speaker of the House of Representatives and the members of the Legislative Council of the proposed use of the bond proceeds from the sale of bond. Approval by the Governor of the terms and conditions under which any of the docks facilities revenue bonds or refunding bonds may be issued shall be requisite to their validity. The Governor's approval shall be in writing and shall be entered on the order of the director in which the series of the docks facilities revenue bonds or refunding bonds proposed to be issued are authorized or sold. Such approval by the Governor may be shown on any series of the docks facilities revenue bonds or refunding bonds by a facsimile of his signature printed or otherwise reproduced thereon when authorization of such action is contained in the approval signed by him. Neither a public hearing nor consent by the Department of Finance of the state or any other department or agency shall be a prerequisite to the issuance of any of the docks facilities revenue bonds or refunding bonds.

(Acts 1984, No. 84-412, p. 963, § 6; Acts 1997, No. 97-410, p. 671, § 1.)

Section 33-2-186

Docks facilities revenue bonds and refunding bonds - Nature of; pledge; negotiable instruments.

The docks facilities revenue bonds and refunding bonds shall not be general obligations of the department but shall be payable solely out of docks facilities revenues. As security for the payment of the principal

of, premium, if any, and interest on the docks facilities revenue bonds and refunding bonds issued by it under this article, the department is hereby authorized and empowered to pledge for payment of the said principal, premium, if any, and interest all or any part of the docks facilities revenues. All contracts made and all docks facilities revenue bonds and refunding bonds issued by the department pursuant to the provisions of this article shall be solely and exclusively obligations of the department and shall not be an obligation or debt of the state. The docks facilities revenue bonds and refunding bonds, except while registered, shall be construed to be negotiable instruments although payable solely from a specified source as herein provided.

(Acts 1984, No. 84-412, p. 963, §7.)

Section 33-2-187

Docks facilities revenue bonds and refunding bonds - Exemption from taxation; use to secure deposit and for investment of fiduciary funds authorized.

Docks facilities revenue bonds and refunding bonds and the income therefrom shall be exempt from all taxation in the state. Any of the docks facilities revenue bonds or refunding bonds may be used by the holder thereof as security for the deposit of any funds belonging to the state or to any instrumentality or agency of the state in any instance where security for such deposits may be required by law. Unless otherwise directed by the court having jurisdiction thereof, or by the document that is the source of power, a trustee, executor, administrator, guardian, or one acting in any other fiduciary capacity may, in addition to any other investment powers conferred by law and with the exercise of reasonable business prudence, invest fiduciary funds in any of the docks facilities revenue bonds or refunding bonds.

(Acts 1984, No. 84-412, p. 963, §8.)

Section 33-2-188

Docks facilities revenue bonds and refunding bonds - Disposition of proceeds of refunding bonds.

The proceeds of refunding bonds shall be applied, together with any other moneys legally available therefor to the payment of the expenses authorized by this article and to the payment of the principal of, premium, if any, and interest due and to become due on any outstanding bonds to be refunded thereby and, if so required by order of the director, shall be deposited by the department, with one or more trustees or escrow agents, which trustees or escrow agents shall be trust companies or national or state banks, located either within or without the state, having powers of a trust company, in an interest account to pay interest on refunding bonds, and in a reserve account to further secure the payment of the principal of, premium, if any, and interest on any refunding bonds. Proceeds of refunding bonds may also be applied to repay the department's lease obligations with respect to the industrial board project and to pay the costs of any surety bond or bonds that the department may cause to be deposited in a reserve account to further secure the payment of principal of, premium, if any, and interest on any refunding bonds. To the extent not required for the immediate payment of outstanding bonds or for deposit into an interest account or a reserve account, or for the payment of the expenses and costs authorized by this section, proceeds of refunding bonds together with any other moneys legally available therefor, shall be deposited in trust, on such terms as the director shall approve, with one or more trustees or escrow agents, which trustees or escrow agents shall be trust companies or national or state banks, located either within or without the

state, having powers of a trust company. Any such proceeds or moneys deposited in trust with one or more trustees or escrow agents shall be applied solely to the payment when due of the principal of, premium, if any, and interest due and to become due on the outstanding bonds to be refunded thereby on or prior to the redemption date or maturity date thereof, as the case may be. Any such proceeds or moneys so deposited with one or more trustees or escrow agents, may be invested in government securities; provided, such government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. Except as provided in the immediately succeeding sentence, neither the government securities nor moneys so deposited with one or more trustees or escrow agents shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, premium, if any, and interest on such outstanding bonds to be refunded thereby; provided that any cash received from such principal or interest payments on such government securities deposited with one or more trustees or escrow agents, (1) to the extent such cash will not be required at any time for such purpose, shall be paid over by said trustees or escrow agents to the department, as received, and (2) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, premium, if any, and interest on such outstanding bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments to the extent not required for the payment of such outstanding bonds shall be paid over by said trustees or escrow agents to the department, as received. Notwithstanding anything to the contrary contained herein, (1) moneys on deposit pursuant to the provisions of this section may be applied and government securities so deposited may be redeemed and sold and the proceeds thereof applied to (i) the purchase of the outstanding bonds which were refunded by the deposit with the trustee or escrow agent of such moneys and government securities and immediately thereafter all outstanding bonds so purchased shall be cancelled, or (ii) the purchase of different government securities; provided, however, that the moneys and government securities on deposit with one or more trustees or escrow agents after such purchase and cancellation of such outstanding bonds or such purchase of different government securities shall be sufficient to pay when due the principal of, premium, if any, and interest on all other outstanding bonds in respect of which such moneys and government securities were deposited on or prior to the redemption date or maturity date thereof, as the case may be; and (2) in the event that on any date, as a result of any purchases and cancellations of outstanding bonds or any purchases of different government securities as provided in this sentence, the total amount of moneys and government securities remaining on deposit with the trustee or escrow agent, is in excess of the total amount which would have been required to be deposited with the trustee or escrow agent on such date in respect of the remaining outstanding bonds for which such deposit was made in order to pay when due the principal of, premium, if any, and interest on such remaining outstanding bonds, the trustee or escrow agent shall, if so directed by the director, pay the amount of such excess to the department.

All applications of proceeds of refunding bonds or other moneys as provided in this section, including without limitation the investment thereof and the sale of any related government securities, shall be at the direction of the director.

Notwithstanding any law to the contrary, moneys of the department may be used from time to time as provided by any authorizing order of the director to replenish withdrawals from any reserve account created pursuant to this section.

In order to enhance the marketability of docks facilities revenue bonds and refunding bonds, since the pledge herein authorized of docks facilities revenues is subordinate to the pledges heretofore made for certain of the outstanding bonds, the department is authorized, in any order of the director relating to any refunding bonds, to covenant with the holders of any docks facilities revenue bonds or any refunding bonds that the proceeds of any refunding bonds and any other moneys deposited in trust as provided in this section for the payment when due of any outstanding bonds refunded thereby, shall not be withdrawn or used for any purpose other than as provided in this section and in such order of the director.

(Acts 1984, No. 84-412, p. 963, §9; Acts 1997, No. 97-410, p. 671, §1.)

Section 33-2-189

Docks facilities revenue bonds and refunding bonds - Disposition of proceeds of docks facilities revenue bonds.

The department shall pay out of the proceeds from the sale of any of the docks facilities revenue bonds all expenses that the director may deem necessary or advantageous in connection with the sale and issuance of such docks facilities revenue bonds (including any discount reflected in the purchase price thereof paid to the department), including fees and disbursements of attorneys, accountants, financial advisors, consulting engineers, and other consultants, fees and disbursements of trustees and escrow agents, bond insurance premiums, printing costs, and other customary bond issuance expenses. Proceeds of any of the docks facilities revenue bonds may also be applied to pay the costs of any surety bonds or bonds that the department may cause to be deposited in a reserve account to further secure the payment of principal of, premium, if any, and interest on any docks facilities revenue bonds. The proceeds of the docks facilities revenue bonds remaining after paying the expenses of their sale and issuance and the costs of any such surety bond or bonds shall be deposited by the department in a special fund called the Docks Facilities Construction and Acquisition Account and, if so required by order of the director, with one or more trustees or escrow agents in an interest account to pay interest on docks facilities revenue bonds, and in a reserve account to further secure the payment of principal of, premium, if any, and interest on any docks facilities revenue bonds. Moneys in the Docks Facilities Construction and Acquisition Account may be invested by the department in government securities or other investments in accordance with the orders pursuant to which the docks facilities revenue bonds are issued. The Docks Facilities Construction and Acquisition Account shall be subject to be drawn on by the director, upon the approval of the Governor, but only for the purpose of paying costs of acquiring, constructing, equipping, and improving docks facilities (including the acquisition of property necessary for such acquisition, construction, and equipment and improvement) and to prepay the department's lease obligations with respect to the industrial board project and to purchase the industrial board project. Notwithstanding any law to the contrary, moneys of the department may be used from time to time as provided by any authorizing order of the director to replenish withdrawals from any reserve account created pursuant to this section. Interest earnings derived from the investment of any proceeds of docks facilities revenue bonds shall be disposed of as may be provided by the order of the director authorizing the issuance of docks facilities revenue bonds.

(Acts 1984, No. 84-412, p. 963, §10; Acts 1997, No. 97-410, p. 671, §1; Act 2007-280, p. 379, §4.)

Section 33-2-190

Docks facilities revenue bonds and refunding bonds - Defeasance.

Any docks facilities revenue bond or refunding bond issued pursuant to the provisions of this article shall no longer be deemed to be outstanding, shall no longer be secured by the docks facilities revenues that may have been pledged therefor, shall no longer constitute a limited obligation of the department, and shall be secured solely by and payable solely from moneys and government securities deposited in trust with one or more trustees or escrow agents as provided herein, whenever there shall be deposited in trust with one or more trustees or escrow agents, as provided herein, either moneys or government securities the principal of and interest on which when due will provide moneys which, together with the moneys, if any, deposited with one or more trustees or escrow agents, at the same time, shall be sufficient to pay when due the principal of, premium, if any, and interest due and to become due on such bonds on or prior to the redemption date or maturity date thereof, as the case may be; provided, such government securities shall not be subject to redemption prior to their maturity other than at the option of the holder thereof. Except as provided in the immediately succeeding sentence hereof, neither the government securities nor moneys so deposited with one or more trustees or escrow agents, shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, premium, if any, and interest to become due on such bonds; provided that any cash received from such principal or interest payments on such government securities deposited with one or more trustees or escrow agents, (1) to the extent such cash will not be required at any time for such purpose, shall be paid over to the department as received, free and clear of any trust, lien, pledge or assignment securing such bonds, and (2) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable and legally permissible, be reinvested in government securities maturing at times and in amounts sufficient to pay when due the principal of, premium, if any, and interest to become due on such bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments to the extent not required for the payment of such bonds shall be paid over to the department, as received, free and clear of any trust, lien or pledge securing such bonds.

Notwithstanding anything to the contrary contained herein:

(1) Moneys deposited pursuant to the provisions of this section may be applied and government securities so deposited may be redeemed and sold and the proceeds thereof applied to (i) the purchase of the docks facilities revenue bonds or refunding bonds which were defeased by the deposit with the trustee or escrow agent of such moneys and government securities and immediately thereafter all docks facilities revenue bonds or refunding bonds so purchased shall be cancelled, or (ii) the purchase of different government securities; provided, however, that the moneys and government securities on deposit with one or more trustees or escrow agents after such purchase and cancellation of such docks facilities revenue bonds or refunding bonds or such purchase of different government securities shall be sufficient to pay when due the principal of, premium, if any, and interest on all other docks facilities revenue bonds or refunding bonds in respect of which such moneys and government securities were deposited with the trustee or escrow agent on or prior to the redemption date or maturity date thereof, as the case may be; and

(2) In the event that on any date, as a result of any purchases and cancellations of docks facilities bonds or refunding bonds or any purchases of different government securities as provided in this sentence, the total amount of moneys and government securities remaining on deposit with the trustee or escrow agent is in

excess of the total amount which would have been required to be deposited with the trustee or escrow agent on such date in respect of the remaining docks facilities revenue bonds or refunding bonds for which such deposit was made in order to pay when due the principal of, premium, if any, and interest on such remaining docks facilities revenue bonds or refunding bonds, or the trustee or escrow agent shall pay over the amount of such excess to the department free and clear of any trust, lien, pledge or assignment securing such docks facilities revenue bonds or refunding bonds.

All applications of proceeds and moneys as provided in this section, including without limitation the investment thereof and the sale of any related securities, shall be at the direction of the director.

(Acts 1984, No. 84-412, p. 963, §11.)

Section 33-2-191

Docks facilities revenue bonds and refunding bonds - Continuation of special charges.

The department is hereby authorized to continue to impose and collect all charges and other fees presently imposed and collected, pursuant to statutory authorization, by the department for the use of docks facilities or the handling or processing of cargo and commodities, irrespective of any statutory provisions providing for the termination of such charges and fees upon the happening of certain events, including specifically the special handling charge on coal handled by the department authorized to be imposed by Act No. 64 enacted at the 1971 Special Session of the Legislature, as amended, and the special processing charge on coal processed by the department authorized to be imposed by Act No. 703 enacted at the 1976 Regular Session of the Legislature, as amended, and all statutory provisions respecting or requiring the termination of such charges and fees in certain events are hereby repealed. The proceeds of such charges and fees shall be considered for all purposes hereof as part of docks facilities revenues, provided that all pledges thereof shall be subordinate in all respects to any appropriations or pledges heretofore made for the payment of any of the outstanding bonds, provided that the priorities of any such docks facilities revenue bonds and refunding bonds over each other as to any pledge provided herein shall be as provided in the order or orders of the director authorizing any such docks facilities revenue bonds and refunding bonds.

(Acts 1984, No. 84-412, p. 963, §12.)

Section 33-2-192

Docks facilities revenue bonds and refunding bonds - Pledge.

All moneys hereby pledged shall constitute a sinking fund for the purpose of paying the principal of, premium, if any, and the interest on the docks facilities revenue bonds and refunding bonds. As security for the payment of the principal of, premium, if any, and interest on the docks facilities revenue bonds and the refunding bonds issued under this article, the department is authorized to pledge the proceeds of the pledge herein provided for, including moneys on deposit in any interest account or reserve account herein authorized to be created and the interest income from the investment of moneys on deposit in such interest account or reserve account, and the docks facilities construction and acquisition account.

Any pledge made pursuant to this section shall be valid and binding from the time the pledge is made. The income or revenue so pledged shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the state or the department, irrespective of whether such parties have notice thereof. Neither the order nor any other instrument by which a pledge is created need be filed or recorded, except in the records of the department.

(Acts 1984, No. 84-412, p. 963, §13.)

Section 33-2-193

Docks facilities revenue bonds and refunding bonds - Preservation of outstanding appropriations, pledges and covenants by state and department.

It is the intention of the Legislature in enacting this article to preserve inviolate all appropriations and pledges heretofore made of any portion of any revenues of the department for the benefit of any of the outstanding bonds.

The state does hereby covenant and agree with the holder of each docks facilities revenue bond or refunding bond issued pursuant to the authority of this article that while any such bonds are outstanding and unpaid (a) neither the state nor the department will appropriate or pledge any portion of the docks facilities revenues for the benefit of any obligations that may at any time be issued pursuant to any statute, ranking on a parity with or superior to the pledge made for the benefit of docks facilities revenue bonds and refunding bonds herein authorized, provided that such covenant and agreement shall not be construed so as to limit the issuance of any obligations subordinate to such pledge, and (b) the state will not change or otherwise alter the duties, responsibilities, obligations or authority of the State Treasurer or the department as provided herein in a manner adverse to the interests of any holder of any docks facilities revenue bond or refunding bond issued under this article.

(Acts 1984, No. 84-412, p. 963, §14.)

Section 33-2-194

Docks facilities revenue bonds and refunding bonds - Covenant by department to maintain charges and other fees.

For the benefit of the holders from time to time of the docks facilities revenue bonds and the refunding bonds herein authorized, and in order to secure maximum prices for said bonds, and in consideration of the purchase and acceptance of said bonds by such holders, the department may, in any order of the director authorizing the issuance of docks facilities revenue bonds or refunding bonds, irrevocably covenant and agree that while any of such docks facilities revenue bonds or refunding bonds are outstanding and unpaid, all charges, including special handling and processing charges, tariffs, surcharges, and other fees of the department shall be maintained at such levels as the department shall specify.

(Acts 1984, No. 84-412, p. 963, §15.)

Section 33-2-195

State Treasurer to disburse funds.

Repealed by Acts 2007-280, p. 379, §6, and 2007-384, p. 766, §2, effective September 1, 2007.

(Acts 1984, No. 84-412, p. 963, §16.)

Section 33-2-196

Reserve funds for outstanding bonds.

In the event there shall have been established any reserve or other similar funds for the benefit of any of the outstanding bonds and if the outstanding bonds for which those funds were established are refunded in full by the issuance of refunding bonds hereunder and if under the terms of the instruments establishing such funds, such funds need not be continued for payment of debt service on any outstanding bonds, then any moneys contained in such funds, and any interest accrued with respect thereto after the issuance of said refunding bonds, shall be paid over to the department for its use in providing additions to the docks facilities and for no other purpose, any statutory provision enacted prior to May 29, 1984 to the contrary notwithstanding.

(Acts 1984, No. 84-412, p. 963, §17.)

Section 33-2-200

Definitions.

The words and terms used in this division shall have the same definitions as provided in Section 33-2-180. In addition, the following words and terms shall be given the following respective meanings:

- (1) INDENTURE. Any mortgage, indenture of mortgage, deed of trust, trust agreement, or trust indenture executed by the department as security for its special purpose obligations.
- (2) PRIVATE FACILITIES. Any and all kinds of buildings, improvements, equipment, or other facilities for the use and benefit of one or more commercial enterprises engaged in the manufacturing, processing, assembling, storing, warehousing, distributing, or selling of any products of agriculture, mining, or industry, or other commercial activity or research in connection therewith which is determined by the department's board of directors, in its discretion, to aid commerce and use of the waterways of the state.
- (3) PRIVATE FACILITY PAYMENTS. Rentals or other payments made to the department by one or more commercial enterprises for the right to use any private facilities financed with special purpose obligations but not including any rentals or charges payable to the department for the lease or use of its lands underlying any private facilities or any other docks facilities revenues. Any private facility payments shall not be considered docks facilities revenues and shall not be subject to any restrictions or provisions governing any docks facilities revenue bonds.

(4) SHORT-TERM OBLIGATIONS. Any agreements entered into or obligations issued by the department, including any agreements for a line of credit providing for periodic draws from and payments against a line of credit for the purpose of financing the operations or other non-capital expenses of the authority.

(5) SPECIAL PURPOSE OBLIGATIONS. Any bonds or other obligations authorized to be issued and sold by the department to finance private facilities and which are payable solely from private facility payments.

(Act 2007-280, p. 379, §1.)

Section 33-2-201

Special purpose obligations.

(a) The department, from time to time, may issue special purpose obligations, which shall be limited obligations of the department payable from and secured solely by a pledge of private facility payments made by or on behalf of one or more commercial enterprises for the right to use the private facilities financed thereby and shall not be payable from docks facilities revenues or otherwise give rise to any liability on the part of the department other than the private facility payments pledged as security therefor. No special purpose obligation shall give rise to any liability or constitute a debt or obligation of the state or a charge against its credit or taxing powers.

(b) Any special purpose obligations shall be issued pursuant to a resolution of the board of directors of the department. As security for the payment of any special purpose obligations, the department is authorized to pledge for the payment of the obligations any private facility payments made by or on behalf of one or more commercial enterprises for the right to use private facilities financed thereby, which pledge shall be governed by the terms of an indenture or the resolution authorizing the issuance of the obligations. The resolution authorizing the issuance of any special purpose obligations and any indenture may contain any agreements and provisions respecting the private facilities financed thereby, the use of the private facility payments pledged as security therefor, the rights, duties, and remedies of the parties to any indenture and other provisions as are deemed necessary and appropriate by the department. There shall be filed with the department prior to the issuance of any special purpose obligations, a certificate of the director certifying that the estimated amount of the pledged rentals or payments to be derived by the department with respect to the private facilities financed thereby will be at least sufficient to pay the principal of and interest on the obligations, all costs of operating and maintaining the private facilities and all sinking fund, reserve, or other payments required by the indenture securing the obligations.

(c) Special purpose obligations may be executed and delivered by the department at any time and from time to time, shall be in the form and denominations and of the tenor and maturities, shall contain the provisions, and shall bear the rate or rates of interest, payable and evidenced in the manner as may be provided by the resolution authorizing their issuance. Any special purpose obligations may be sold at public or private sale in the manner and at the price or prices and at the time or times as may be determined by the department to be most advantageous. Any expenses, premiums, and commissions in connection with the issuance and sale of special purpose obligations may be payable from the proceeds of sale of the obligations. All special purpose obligations shall be signed by the director and attested by the

secretary of the department; provided that a facsimile of either or both officers may be printed or otherwise reproduced on any obligations in lieu of manual execution, provided, that in such case the validity of the obligations shall be dependent upon authentication by the manual signature of the trustee or paying agent for the obligations.

(d) The proceeds of sale of any special purpose obligations may be applied to pay the cost of acquisition, construction, and installation of the private facilities described in the resolution providing for their issuance, including, without limitation, reimbursement of costs theretofore paid by the department or the commercial enterprise for the benefit of which the obligations are issued, to fund the reserves as are necessary and appropriate to secure the payment of the special purpose obligations, to pay the costs and expenses incident to the authorization, issuance, and sale thereof, to purchase the insurance or obtain any other credit enhancement as shall be necessary and appropriate and, if so provided in the resolution authorizing their issuance, interest on the obligations for a reasonable period prior to and during the time required for the acquisition, construction, and equipping of the private facilities. All uses of the proceeds of sale of any special purpose obligations, including the investment of the proceeds prior to the expenditure thereof, shall be consistent with the resolution providing for their issuance and any indenture securing the obligations and shall be authorized by the director.

(e) Subject to the provisions and limitations contained in this section, the department, from time to time, may sell and issue refunding bonds for the purpose of refunding any special purpose obligations then outstanding. The refunding bonds may be subrogated and entitled to all priorities, rights, and pledges to which the special purpose obligations refunded thereby were entitled.

(f) All special purpose obligations issued by the department and the income therefrom including all interest thereon shall be exempt from all taxation in the state.

(Act 2007-280, p. 379, §2.)

Section 33-2-202

Short-term obligations.

The department, from time to time, may enter into or execute and deliver short-term obligations. Any short-term obligations shall not be general obligations of the department, but shall be payable solely from docks facilities revenues and shall be subject to repayment in not more than three years; provided, that the department may refinance or renew any short-term obligations from time to time. As security for the payment of any short-term obligations, the department is hereby authorized and empowered to pledge for payment of the short-term obligations, all or any part of its docks facilities revenues; provided, however, that any pledge of its docks facilities revenues, in the discretion of the department, may be on parity with or subordinate to the pledge securing any revenue bonds or other obligations of the department.

(Act 2007-280, p. 379, §3.)

Section 33-2-203

Security for obligations.

As security for the payment of any obligations agreed to in any swap agreement, as defined in subdivision (3) of Section 41-1-41, the department may pledge for payment of the obligations, all or any part of its docks facilities revenues; provided, however, that any pledge of its docks facilities revenues, in the discretion of the department, may be on parity with or subordinate to the pledge securing any of its docks facilities revenue bonds or other obligations.

(Act 2007-280, p. 379, §5.)

Article 8 Alabama State Docks Facilities Contingency Trust Fund.

Section 33-2-210

Creation and funding of Alabama State Docks Facilities Contingency Trust Fund.

Beginning with the fiscal year commencing on October 1, 1987, the first nine million five hundred thousand dollars (\$9,500,000) of the net amount of all taxes required to be deposited to or certified into the State Treasury to the credit of the State General Fund pursuant to Section 40-20-8, during each quarter of each fiscal year shall be credited to an account to be established in the State Treasury and known as the Alabama State Docks Facilities Contingency Trust Fund. All funds deposited in the State Treasury to the credit of the Alabama State Docks Facilities Contingency Trust Fund are to the extent set out herein appropriated to the Alabama State Port Authority and shall be transferred to the port authority upon the making by the Director of Finance of the factual determinations hereinafter provided for. In no case shall the amount transferred and paid out of the Alabama State Docks Facilities Contingency Trust Fund to the Alabama State Port Authority exceed the sum of nine million five hundred thousand dollars (\$9,500,000) during any fiscal year. In no event, however, shall the Alabama State Port Authority be required to use any appropriation made pursuant to this article in a manner that would result in any bonds heretofore or hereafter issued by or on behalf of the state constituting a debt of the state in violation of any constitutional prohibition or limitation.

(Acts 1987, No. 87-551, p. 849, §1; Act 98-503, p. 1120, §1.)

Section 33-2-211

Notification by Director of Alabama State Port Authority to Director of Finance of expected deficiency.

During the first 20 days of each quarter of each fiscal year of the state, beginning with the fiscal year commencing on October 1, 1987, the Director of the Alabama State Port Authority shall notify the Director of Finance in writing as to whether the revenues anticipated to be derived by the Alabama State Port Authority from the operation of its facilities for that quarter, plus those moneys the Director of the Alabama State Port Authority anticipates will be made available during that quarter to the Alabama State Port Authority pursuant to Section 40-13-6, will together be sufficient to pay the aggregate of (1) the expenses anticipated to be incurred in operating and maintaining the Alabama State Port Authority's coal handling facilities during that quarter (including depreciation for that quarter not to exceed \$500,000.00), (2) the expenses anticipated to be incurred in operating and maintaining all the Alabama State Port

Authority's other facilities during that quarter (exclusive of depreciation), and (3) an amount equal to the principal and interest that has or will come due during that quarter on (a) those bonds of the Alabama State Port Authority for payment of principal of and interest on which the revenues of the port authority's coal handling facilities have been pledged and for which payment has not otherwise been provided through the establishment of a trust or escrow fund making provision for the payment or retirement thereof, and (b) all other bonds or obligations of the state or of the Alabama State Port Authority for payment of principal of and interest on which any of the revenues of the port authority have been pledged and for which payment has not otherwise been provided through the establishment of a trust or escrow fund making provision for the payment or retirement thereof. The notification provided for in the immediately preceding sentence shall specify the estimated amount of the expected deficiency, if any. Upon receipt of a notification of an expected deficiency and such supporting documentation from the Alabama State Port Authority as the Director of Finance may specify, and if the Director of Finance is satisfied as to the accuracy of the estimated amount of the expected deficiency as reflected in the notification thereof and accompanying documentation, he shall so determine in writing and there shall, during the quarter in which the expected deficiency is anticipated to occur, and following the making of any transfer and payment required to be made pursuant to Section 33-2-212, be transferred and paid out of Alabama State Docks Facilities Contingency Trust Fund to the Alabama State Port Authority an amount equal to the lesser of (i) the amount of the expected deficiency computed as described in this section or (ii) such amount as shall then be contained in and as shall during the remainder of the then current quarter of the fiscal year be deposited to the credit of the Alabama State Docks Facilities Contingency Trust Fund.

(Acts 1987, No. 87-551, p. 849, §2.)

Section 33-2-212

Report attesting to actual deficiency; adjustment of amount previously transferred; transfer to State General Fund.

Within 20 days after the close of any quarter of any fiscal year during which moneys have been transferred and paid to the Alabama State Port Authority pursuant to a notification of expected deficiency as described in Section 33-2-211, a written report shall be filed by the Director of the Alabama State Port Authority with the Director of Finance supported by such documentation as may be deemed appropriate by the Director of Finance, attesting to the amount of the actual deficiency, if any, incurred during that quarter by the Alabama State Port Authority respecting its facilities, computed by subtracting the sum of the revenues actually derived by the Alabama State Port Authority from the operation of its facilities for that quarter and those moneys actually made available during that quarter to the Alabama State Port Authority pursuant to Section 40-13-6, from the aggregate of (1) the expenses incurred in operating and maintaining the Alabama State Port Authority's coal handling facilities during that quarter (including depreciation for that quarter not to exceed five hundred thousand dollars (\$500,000)), (2) the expenses incurred in operating and maintaining all the Alabama State Port Authority's other facilities during that quarter (exclusive of depreciation), and (3) an amount equal to the principal and interest that came due during that quarter on (a) those bonds of the Alabama State Port Authority for payment of principal of and interest on which the revenues of the port authority's coal handling facilities have been pledged and for which payment has not otherwise been provided through the establishment of a trust or escrow fund

making provision for the payment and retirement thereof, and (b) all other bonds or obligations of the state or of the Alabama State Port Authority for payment of principal of and interest on which any of the revenues of the port authority have been pledged and for which payment has not otherwise been provided through the establishment of a trust or escrow fund making a provision for the payment or retirement thereof. Upon receipt of that report and such documentation with respect thereto from the Alabama State Port Authority as the Director of Finance may specify, the Director of Finance, if satisfied as to the accuracy of the amount of the actual deficiency as reflected in the report and accompanying documentation, shall so determine in writing and, if the actual deficiency is greater than the expected deficiency previously computed under this article respecting the quarter in question, there shall be transferred and paid, during the quarter in which such a report of an actual deficiency is filed, out of the Alabama State Docks Facilities Contingency Trust Fund to the Alabama State Port Authority an amount equal to the lesser of (i) the excess of the actual deficiency (computed as described in this section) over the amount previously paid to the Alabama State Port Authority respecting the expected deficiency for the immediately preceding quarter, or (ii) the balance then contained in the Alabama State Docks Facilities Contingency Trust Fund. If at such time the excess of the actual deficiency over the amount previously paid to the Alabama State Port Authority respecting the expected deficiency for the then immediately preceding quarter is more than the balance then contained in the Alabama State Docks Facilities Contingency Trust Fund, the amount of that difference shall be taken into account in determining the expected deficiency, if any, for the then current quarter as if the amount of that difference constituted an expense anticipated to be incurred in operating and maintaining the Alabama State Port Authority's facilities during the then current quarter. If the actual deficiency is less than the amount previously paid to the Alabama State Port Authority respecting the expected deficiency for the immediately preceding quarter, the amount of that difference shall be taken into account in determining the expected deficiency, if any, for the then current quarter as if the amount of that difference constituted revenues anticipated to be derived by the Alabama State Port Authority from the operation of its facilities for the then current quarter, provided that, in the event there is no expected deficiency for such quarter or if such deficiency does not equal said difference any amount of said difference not taken into account as provided in this sentence for the then current quarter shall be taken into account in determining the expected deficiencies, if any, for future quarters, until said difference shall have been fully taken into account. Within 45 days after the close of the third quarter of each fiscal year, any moneys then contained in and as shall during the remainder of the fourth quarter of the fiscal year be deposited to the credit of the Alabama State Docks Facilities Contingency Trust Fund, except for an amount equal to the amount anticipated to be needed by the port authority during the fourth quarter of the fiscal year to satisfy the expected deficiency, if any, for that quarter, shall be transferred out of the Alabama State Docks Facilities Contingency Trust Fund and deposited to the State General Fund.

The provisions of the immediately preceding paragraph of this section to the contrary notwithstanding, in any fiscal year commencing on or after October 1, 1998, if the determination of the Director of Finance, either as described in Section 33-2-211 regarding an expected deficiency, or as described in this section regarding an actual deficiency being in excess of an expected deficiency for the immediately preceding quarter of the then current fiscal year, has not been made during the first 29 days of any quarter of such fiscal year, any moneys then contained in, and as shall, during the remainder of such quarter of such fiscal year, be deposited to the credit of, the Alabama State Docks Facilities Contingency Trust Fund shall be

transferred out of the Alabama State Docks Facilities Contingency Trust Fund on the 30th day of each month in such quarter and deposited to the State General Fund.

(Acts 1987, No. 87-551, p. 849, §3; Act 98-503, p. 1120, §1.)

Section 33-2-213

Use of amounts transferred.

Any provision of or implication in this article to the contrary notwithstanding, no amount transferred and paid to the Alabama State Port Authority pursuant to this article may be pledged by the port authority to pay principal of or interest on any bonds or other obligations issued by or for the benefit of the port authority; nor shall this article be deemed to constitute a contract between the state or the port authority and the holders of any bonds or other obligations heretofore or hereafter issued by or for the benefit of the port authority, it being understood as follows:

(1) That no holders shall be deemed beneficiaries of this article or any of the appropriations, payments or transfers provided for herein (which such appropriations shall be subject to proration in accordance with law).

(2) That the amounts herein appropriated and ordered transferred and paid to or for the benefit of the port authority constitute mere voluntary payments by the state to or in aid of the port authority.

(Acts 1987, No. 87-551, p. 849, §4; Act 2000-598, p. 1199, §2.)