

The Code of Alabama 1975

Title 33 NAVIGATION AND WATERCOURSES.

Chapter 10 AMERAPORT OFFSHORE HARBOR AND TERMINAL COMMISSION.

Section 33-10-1

Definitions.

In this chapter, these terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) DEEP DRAFT HARBOR OR TERMINAL. A structure, series of structures or facility of any type located on the continental shelf off the coast, within or without the State of Alabama, and designed to accommodate deep draft vessels carrying petroleum products whose draft is often greater than the depths of United States harbors and waterways commonly used by oceangoing traffic, and such term includes all functionally related structures and facilities which are necessary or useful to the operation of the terminal whether landward or seaward of the main structure or facility. Such structures may be or include a "single-buoy mooring terminal" system, or a "mono-buoy system."

(2) COMMISSION. The Ameraport Offshore Harbor and Terminal Commission.

(3) EXECUTIVE DIRECTOR. The Executive Director of the Ameraport Offshore Harbor and Terminal Commission.

(Acts 1973, No. 1064, p. 1779, §3.)

Section 33-10-2

Purpose of chapter.

It is the intent and purpose of this chapter to provide for the creation of the Ameraport Offshore Harbor and Terminal Commission, hereinafter referred to as the "commission," to promote, plan, finance, develop, construct, control, operate, manage, maintain and modify a deep draft harbor and terminal, in order to promote the economic welfare of the citizens of the State of Alabama, and to provide the necessary facilities for docking, loading and unloading of vessels carrying liquid or dry bulk and energy cargoes, and to provide for the laying of pipelines or other forms of transportation or transmission of energy cargoes of all kinds. It is the object of this chapter to assert and protect Alabama's economic, social and environmental interests in the development of any deep draft harbor and terminal outside the State of Alabama where such development may have an impact upon the State of Alabama.

(Acts 1973, No. 1064, p. 1779, §1.)

Section 33-10-3

Composition; appointment, qualifications, terms and removal of members; vacancies; officers generally.

The commission shall be composed of the Governor, who shall serve as an ex officio member, and a board of commissioners consisting of five members chosen on the basis of their demonstrated experience in civic leadership and their stature and ability to act effectively for the best interests of the State of Alabama. All commissioners shall be appointed by the Governor. Each of the five commissioners shall serve a five-year term, except for the initial appointees. The first five appointments shall be for terms as follows: One member for one year, two for two years and two for three years. All vacancies shall be filled by the Governor for the unexpired term in the same manner as the appointments are originally made. A commissioner may be removed by the Governor for just cause. The Governor shall designate one member of the commission to serve as chairman and another to serve as vice-chairman. Any vacancy in the office of chairman or vice-chairman shall be filled for the unexpired term in the manner provided for the original appointment or selection. The commission may select other officers as are appropriate for the fulfillment of the commission's activities.

(Acts 1973, No. 1064, p. 1779, §5.)

Section 33-10-4

Compensation and expenses of members.

All members of the commission are entitled to receive reimbursement for travel and other necessary expenses resulting from the performance of their powers and duties under this chapter, and all members of the commission, except persons who are officers or employees of another state agency or a local government or political subdivision of the state, are entitled to receive as compensation \$50.00 a day for each day actually engaged in the work of the commission.

(Acts 1973, No. 1064, p. 1779, §7.)

Section 33-10-5

Meetings; quorum.

The commission shall meet at least once each month and may hold special meetings at the call of the chair or of three of its members. The chairman, or in his absence the vice-chairman, shall preside at all meetings. A majority of the members of the commission constitutes a quorum for the transaction of business.

(Acts 1973, No. 1064, p. 1779, §6.)

Section 33-10-6

Executive director - Commission to employ; term.

The commission shall employ an executive director to serve at the will of the commission.

(Acts 1973, No. 1064, p. 1779, §8.)

Section 33-10-7

Executive director - Duties generally.

The executive director, under policies adopted by the commission, shall manage the executive and administrative functions of the commission and the commission's general operations and shall serve as chief administrative officer of the commission.

(Acts 1973, No. 1064, p. 1779, §9.)

Section 33-10-8

Executive director — Duties as to minutes, files and records.

The executive director shall keep full and accurate minutes of all transactions and proceedings of the commission. The executive director shall be the custodian of all the files and records of the commission.

(Acts 1973, No. 1064, p. 1779, §12.)

Section 33-10-9

Executive director - To be secretary to board of commissioners; compensation; employment of personnel.

The executive director, in addition to his usual functions, shall be secretary to the board of commissioners. The board of commissioners shall fix the compensation of the executive director. The executive director shall employ necessary engineers, attorneys, accountants, technical personnel and other employees necessary to carry out the provisions of this chapter.

(Acts 1973, No. 1064, p. 1779, §10.)

Section 33-10-10

Compensation of employees.

Employees of the commission are entitled to compensation as provided by the commission.

(Acts 1973, No. 1064, p. 1779, §11.)

Section 33-10-11

Rules.

After proper notice and hearing, the commission shall adopt rules for its operations and to carry out its powers, duties and responsibilities.

(Acts 1973, No. 1064, p. 1779, §13.)

Section 33-10-12

Soliciting, etc., money and other assistance.

The commission may apply for, request, solicit, contract for, receive and accept money and other assistance from any source to carry out its duties.

(Acts 1973, No. 1064, p. 1779, §14.)

Section 33-10-13

Information, etc., property of state; records open to inspection.

All information, documents and data collected by the commission in the performance of its duties are the property of the state. All records are open to inspection by any person during regular office hours.

(Acts 1973, No. 1064, p. 1779, §15.)

Section 33-10-14

Powers and duties generally.

The commission shall formulate general policy to govern the agency and its activities. The commission has the powers and duties specifically prescribed by this chapter and all other powers necessary or convenient to carry out its responsibilities.

(Acts 1973, No. 1064, p. 1779, §16.)

Section 33-10-15

Certain powers enumerated.

The commission is granted all powers capable of being delegated by the Legislature under the Constitution of the state, including but not limited to authority:

- (1) To own, construct, operate, maintain and lease docks, wharves, sheds, elevators, pipelines, pumping stations and facilities, storage facilities, housing and food facilities, heliport, locks, slips, laterals, basins, warehouses and all other property, structures, equipment and facilities, including belt and connecting lines of railroads and works of public improvement necessary or useful for deep draft harbor and terminal purposes.
- (2) To dredge and maintain shipways, channels, slips, basins and turning basins.
- (3) To establish, operate and maintain in cooperation with the federal government, the State of Alabama and its various agencies, subdivisions and public bodies, navigable waterway systems.
- (4) To acquire by expropriation any real property in fee, leaving the ownership of any minerals or mineral rights in the former owners.
- (5) To collect tolls and fees.

(6) To borrow funds for the business of the commission.

(7) To select an official journal for the publication of the official acts of the commission.

(8) To mortgage properties constructed or acquired by said commission and to mortgage and pledge any lease or leases and the rents, income and other advantages arising out of any lease or leases granted, assigned or subleased by the commission.

(Acts 1973, No. 1064, p. 1779, §18.)

Section 33-10-16

Promotion, operation, etc., of development program; contracts, etc., with other agencies.

The commission shall be vested with exclusive and plenary authority to do any and all things necessary or proper for the commission to promote, plan, finance, develop, construct, control, operate, manage, maintain and modify the commission development program. To assert Alabama's interest in any deep draft harbor and terminal development in proximity to the Alabama coast, the commission is empowered to negotiate with and enter into contracts, compacts or other agreements with agencies, bureaus or other divisions of the federal government or other states of the United States concerning the commission development program, including jurisdictional aspects of the location of the deep draft harbor and terminal, sharing of revenues derived from the operation of the deep draft harbor and terminal and promulgation and enforcement of regulations governing commission operations.

(Acts 1973, No. 1064, p. 1779, §17.)

Section 33-10-17

Jurisdiction; right to acquire waterbottoms.

The commission shall have exclusive jurisdiction over the commission development program within the coastal waters of Alabama. The commission shall have the right to acquire waterbottoms inside and outside of the territorial limits of the State of Alabama for use in the construction, operation or maintenance of the facilities functionally required, related, necessary or useful to the operation of the commission.

(Acts 1973, No. 1064, p. 1779, §4.)

Section 33-10-18

Lease of state-owned waterbottoms.

To enable the commission to perform the work herein provided, the State of Alabama, acting by and through the appropriate state departments, is hereby authorized, empowered and directed to grant to the commission a lease on state-owned waterbottoms which are selected by the commission as sites for the deep draft harbor and terminal; provided, however, that the mineral rights on any and all state lands shall be reserved to the State of Alabama.

(Acts 1973, No. 1064, p. 1779, §21.)

Section 33-10-19

Lease of state lands; petroleum and commodity terminal; compensation of oyster lessees.

The commission may lease or sublease lands leased from the State of Alabama and is authorized to negotiate and enter contracts or agreements with any public or private individual or corporation for the construction and operation of a petroleum and commodity terminal as an interstate common carrier. In the event of the acquisition or use of any state-owned waterbottoms on which there has been granted an oyster lease the private oyster lessee shall be reimbursed by the commission for the actual market value of said lease. In the event of expropriation, the compensation to be paid shall be the actual market value of the property at the time of taking.

(Acts 1973, No. 1064, p. 1779, §22.)

Section 33-10-20

Protection of coastal environment.

The commission is hereby empowered to take all necessary steps to protect Alabama's unique coastal environment from any short-term or long-term damage or harm which might occur from any aspect of the commission development program.

(Acts 1973, No. 1064, p. 1779, §19.)

Section 33-10-21

Contracts for public utilities.

The commission may contract with any agency, public or private, to provide for public utilities on such terms as are agreed upon. The commission and the respective utilities may contract for the financing, construction and extension of sewerage, water, drainage, electricity, gas and other necessary public utilities in and through said development.

(Acts 1973, No. 1064, p. 1779, §20.)

Section 33-10-22

Purchase of vehicles, equipment, etc.

Where the commission deems it advisable and in the public interest to purchase machinery, equipment or vehicles of certain makes, kinds or types, the commission may purchase those makes, kinds or types, but they shall not pay more than the actual market price for the machinery, equipment or vehicles.

(Acts 1973, No. 1064, p. 1779, §23.)

Section 33-10-23

Intergovernmental contracts.

The commission may enter into intergovernmental contract agreements with existing port authorities, individually, or with any city, municipality or subdivision of the state, and may engage jointly in the exercise of any power, the making of any improvements which each of the participating authorities may exercise or undertake individually under any provision of general or special law.

(Acts 1973, No. 1064, p. 1779, §24.)

Section 33-10-24

Issuance of bonds.

The commission is granted the power to incur debt and issue bonds by any of the means authorized by the Constitution and laws of the State of Alabama. Any revenue-producing wharf, dock, warehouse, elevator, industrial facility or other structure owned by or to be acquired by the commission from proceeds of bonds issued by it is hereby declared to be a revenue-producing public utility as that term is used and defined by the Constitution and laws of the state in connection with the issuance of revenue bonds of political subdivisions of the state. As an additional grant of authority beyond other provisions of the Constitution, the commission is authorized to issue negotiable bonds for any purpose within their delegated authority, and to pledge for the payment of the principal and interest of such negotiable bonds the income and revenues derived or to be derived from the properties and facilities maintained and operated by them or received by the commission from other sources. Such negotiable bonds may be further secured by a conventional mortgage upon any or all of the property constructed or acquired, or to be constructed or acquired by them. To further secure such negotiable bonds the commission may apply in whole or in part any money received by gift, grant, donation or otherwise from the United States, the State of Alabama, or any political subdivision thereof, unless otherwise provided by terms of the gift, devise, donation or similar grant.

(Acts 1973, No. 1064, p. 1779, §25.)

Section 33-10-25

Exemption from taxation; servicing of bonds.

It is the intent of this chapter that the commission shall not be required to pay any taxes or assessments on any property acquired or used by it under the provisions of this chapter or upon the income therefrom, and any bonds issued hereunder shall be serviced from the income of said facility and shall be exempt from taxation by the State of Alabama, and by any municipal or political subdivision of the state.

(Acts 1973, No. 1064, p. 1779, §2.)

Section 33-10-26

When commission to cease to exist.

The commission created by this chapter shall cease to exist upon the authorization of a bistate compact by the U.S. Congress for essentially the same purposes as this chapter.

(Acts 1973, No. 1064, p. 1779, §26.)