

1 AN ACT relating to riverport authorities and declaring an emergency.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 → Section 1. KRS 65.520 is amended to read as follows:

4 (1) Any governmental unit by act of its legislative body, or any two (2) or more
5 governmental units acting jointly by acts of their legislative bodies, and with the
6 approval of the Transportation Cabinet, Office of the Secretary, may establish a
7 developmental riverport authority to be composed of six (6) members.

8 (2) The authority shall be a body politic and corporate with the usual corporate
9 attributes, and in its corporate name may sue and be sued, contract and be
10 contracted with and do all things reasonable or necessary to effectively carry out the
11 powers and duties prescribed by KRS 65.510 to 65.650. The authority may exercise
12 all powers granted to governmental agencies by KRS 58.010 to 58.140. The
13 authority may exercise all powers, consistent with its powers and duties stated in
14 this chapter, granted by KRS 273.171 to corporations governed by KRS 273.161 to
15 273.390.

16 (3) ***The authority shall not delegate the powers set out in subsection (2) of this***
17 ***section to any other entity. The authority may enter into contracts with vendors to***
18 ***deliver tasks or functions but shall not cede policy-making authority.***

19 **(4)** The responsibility for riverports shall be established within the Transportation
20 Cabinet to provide oversight on development activities involving riverport
21 authorities. The cabinet shall be responsible for managing a study that will develop
22 a long-range capital improvements plan for Kentucky's riverports that shall include,
23 but not be limited to:

- 24 (a) Guidelines for ground transportation access to riverports;
25 (b) A model for determining the economic impact of riverports; and
26 (c) A blueprint for creating long-term funding mechanisms for riverports.

27 → Section 2. KRS 65.530 is amended to read as follows:

1 (1) The purposes of the authority shall be to:

2 (a) Enhance, foster, aid, provide, and promote transportation, economic
 3 development, housing, recreation, education, governmental operations,
 4 culture, and research within the jurisdiction of the authority or its economic
 5 environs; and

6 (b) Establish, maintain, operate, and expand necessary and proper riverport and
 7 river navigation facilities, and to acquire and develop property, or rights
 8 therein within the economic environs, the home county, or any county
 9 adjacent thereto, of the riverport or proposed riverport to attract directly or
 10 indirectly river-oriented industry.

11 It shall have the duty and such powers as may be necessary or desirable to promote
 12 and develop the authority's purposes~~[navigation, river transportation, riverports,~~
 13 ~~and riverport facilities, and to attract industrial or commercial operations to the~~
 14 ~~property held as industrial parks].~~

15 (2) The authority may establish and fix reasonable rates, charges, and fees for the use
 16 of the riverport facilities which shall be published in a manner available to the
 17 general public in the county in which the riverport is located. In fixing rates,
 18 charges, or fees the authority may take into consideration, among other factors, the
 19 total capital investment of the authority, the revenue needed properly to maintain
 20 such facilities, the revenue needed properly to expand the riverport and its facilities,
 21 the portion of the facilities utilized by the licensee or contracting party and its
 22 customers, and the volume and type of business conducted. Any party aggrieved by
 23 the rates, charges, or fees may appeal from the action of the authority to the Circuit
 24 Court of the county within which the authority operates, within ninety (90) days
 25 from the date that the authority finally publishes the rates, charges, or fees and gives
 26 notice of same to the contracting party or licensee. The Circuit Court may hear
 27 evidence and determine whether or not the rates, charges, or fees are, or are not,

1 reasonable in amount. Appeal from the judgment of the Circuit Court may be
2 prosecuted as any other civil appeal.

3 (3) The authority shall also have power, from time to time, to fix rates, charges, or fees
4 by contract, or by publishing general rates, charges, or fees for commercial vendors,
5 concessionaires, or other persons for the use or occupancy of riverport facilities
6 under the terms and conditions it deems to be in the best interest of maintaining,
7 operating, or expanding necessary riverport facilities, and the public use thereof.

8 (4) The authority may acquire by contract, lease, purchase, option, gift, condemnation,
9 or otherwise any real or personal property, or rights therein, necessary or suitable
10 for establishing, developing, operating, or expanding riverports, riverport facilities,
11 water navigation facilities, including spoilage areas for the disposal of materials
12 dredged from river bottoms in an effort to improve the navigability of rivers,
13 reserve storage areas and reserves of bulk materials utilized by the authority or any
14 person acting as the authority's agent or licensee, and industrial parks or sites within
15 the economic environs of the riverport or proposed riverport. The authority may
16 erect, equip, operate, and maintain on the property buildings and equipment
17 necessary and proper for riverport and water navigation facilities. The authority
18 may dispose of any real or personal property, or rights therein, which in the opinion
19 of the authority is not needed for use as riverport or water navigation facilities, or
20 use as industrial parks or sites. The authority may lease, sell, convey, or assign its
21 interest in land owned, optioned, or otherwise held by it to any person for the
22 purpose of constructing and/or operating any industrial or commercial facility or for
23 the purpose of acting as the authority's agent or licensee in effectively carrying out
24 any of its powers and duties.

25 (5) With the consent of the legislative body of the governmental unit in which the
26 property to be condemned is located, the authority may by resolution, reciting that
27 the property cannot be acquired by purchase or agreement and is needed for

1 riverport, water navigation, or industrial purposes in accordance with the powers set
 2 forth in subsection (4) of this section, direct the condemnation of any property. The
 3 procedure for condemnation shall conform to the procedure set out in the Eminent
 4 Domain Act of Kentucky.

5 (6) The authority may apply for, receive authorization for, establish, and operate a
 6 foreign trade zone, as permitted by 19 U.S.C. sec. 81, provided approval is obtained
 7 from the Cabinet for Economic Development.

8 (7) The authority shall comply with the provisions of KRS 65A.010 to 65A.090.

9 **(8) Unless otherwise agreed to in writing between the authority and a planning unit**
 10 **as defined in KRS 100.111, the authority shall comply with the comprehensive**
 11 **plan, land use ordinances and regulations, and design and character guidelines**
 12 **of each planning unit in which the authority operates.**

13 → Section 3. KRS 65.540 is amended to read as follows:

14 (1) The members of the authority shall be appointed as follows:

15 (a) If the authority is established by a city, such members shall be appointed by
 16 the mayor of the city;

17 (b) If the authority is established by a county, such members shall be appointed
 18 by the county judge/executive with the approval of the fiscal court;

19 (c) If the authority is established as a joint city-county riverport authority, three
 20 (3) members shall be appointed by the mayor and three (3) members by the
 21 county judge/executive to the terms as provided in subsection (2) of this
 22 section, and in addition, the mayor may appoint himself or a member of the
 23 city legislative body as one (1) additional member of the authority and the
 24 county judge/executive may appoint himself or a member of the fiscal court as
 25 one (1) additional member of the authority for a term of two (2) years,
 26 provided that such persons may not serve on the authority after the expiration
 27 of their terms as an elected official;

- 1 (d) If a combination of cities and/or counties establishes a joint riverport
 2 authority, the mayors and/or county judges/executive involved shall jointly
 3 choose six (6) members to the terms as provided in subsection (2) of this
 4 section, and shall jointly choose successors and may upon agreement appoint
 5 a mayor or a member of a city legislative body and a county judge/executive
 6 or a member of a fiscal court as two (2) additional members of the authority
 7 for terms of two (2) years, provided that such persons may not serve on the
 8 authority after the expiration of their terms as an elected official; **and**
- 9 **(e) If a combination of more than two (2) counties establishes a joint riverport**
 10 **authority, the county judges/executive of each county and the mayor of the**
 11 **largest city in each county, as of the most recent federal census, shall each**
 12 **choose one (1) member to the terms set forth in subsection (2) of this**
 13 **section. Each county judge/executive and mayor shall choose a successor,**
 14 **and shall not appoint himself or herself as a member.**
- 15 (2) Except as provided in subsection (1)(c) and (d) of this section, members of the
 16 authority shall serve for a term of four (4) years each, and until their successors are
 17 appointed and qualified, provided, however, that initial appointments shall be made
 18 so that two (2) members are appointed for two (2) years, two (2) members for three
 19 (3) years, and two (2) members for four (4) years. Upon expiration of these
 20 staggered terms, successors shall be appointed for a term of four (4) years.
- 21 (3) A riverport authority member may be replaced by the appointing authority for
 22 inefficiency, neglect of duty, malfeasance, or conflict of interest. The appointing
 23 authority shall submit a written statement to the riverport authority setting forth the
 24 reasons for removal, and the statement shall be read at the next authority meeting,
 25 which shall be open to the general public. The member so removed shall have the
 26 right of appeal in the Circuit Court. Except as provided in subsection (1)(c) and (d)
 27 of this section no riverport authority member shall hold any official office with the

1 appointing authority.

2 (4) Notwithstanding subsection (2) of this section, when a city of the first class and a
 3 county containing such city have in effect a compact under KRS 79.310 to 79.330,
 4 the terms of the members of the authority shall be for three (3) years and until their
 5 successors are appointed and qualified. Upon the effective date of the compact, the
 6 county judge/executive with the approval of the fiscal court shall adjust the terms of
 7 the sitting members so that one-third (1/3) of the terms expire in one (1) year, one-
 8 third (1/3) expire in two (2) years, and one-third (1/3) expire in three (3) years.
 9 Upon expiration of these staggered terms, successors shall be appointed for a term
 10 of three (3) years. Upon the establishment of a consolidated local government in a
 11 county where a city of the first class and a county containing that city have had in
 12 effect a cooperative compact pursuant to KRS 79.310 to 79.330, all members of the
 13 authority shall be appointed by the mayor of the consolidated local government for
 14 a term of three (3) years pursuant to the provisions of KRS 67C.139. Incumbent
 15 members upon the establishment of the consolidated local government shall
 16 continue to serve as members of the authority for the time remaining on their
 17 current terms of appointment.

18 **(5) If a combination of more than two (2) counties establishes a joint riverport**
 19 **authority, the authority shall adopt a code of ethics which, at a minimum, shall be**
 20 **as stringent as the code of ethics of each of the establishing counties. The code of**
 21 **ethics shall be delivered to the Department for Local Government and to each**
 22 **establishing county pursuant to 65A.070.**

23 **(6) No member or employee of a riverport authority shall:**

24 **(a) Have any interest, direct or indirect, in the gains or profits of any**
 25 **investment or any other legal, business, or financial transaction made by**
 26 **the authority;**

27 **(b) Have any interest, direct or indirect, in the gains or profits of any vendor**

- 1 doing business with the authority;
- 2 (c) Have a contract or agreement with the authority, individually or through a
- 3 business owned by a member or employee of the authority;
- 4 (d) Use his or her official position with the authority to obtain a financial gain
- 5 or benefit or advantage for himself or herself or a family member;
- 6 (e) Use confidential information acquired during his or her tenure with the
- 7 authority to further his or her own economic interests or that of another
- 8 person; or
- 9 (f) Hold outside employment with, or accept compensation from, any person or
- 10 business with which he or she has involvement as part of his or her official
- 11 position with the authority.
- 12 (7) No member or employee of the authority shall have any interest, direct or
- 13 indirect, in the gains or profits of any investment or any other legal, business, or
- 14 financial transaction made by the authority for a period of five (5) years
- 15 following termination of his or her position.

16 ➔Section 4. Whereas it is critical for the economic prosperity of the

17 Commonwealth to have riverport authorities and to ensure that board members of the

18 authorities adhere to the highest ethical standards, an emergency is declared to exist, and

19 this Act takes effect upon its passage and approval by the Governor or upon its otherwise

20 becoming a law.