

House Bill No. 1649

An act relating to the Jacksonville Port Authority, Consolidated City of Jacksonville, Duval County; creating and establishing separate charter provisions concerning the seaport authority known as the Jacksonville Port Authority which was established effective October 1, 2001, pursuant to chapter 2001-319, Laws of Florida, as amended; establishing the separate seaport authority as a county authority, providing for governing bodies, appointment of members, terms, staggered terms, and rules of procedure; providing for employment of a managing director and other employees; providing for interrelations with and use of services of the City of Jacksonville; providing definitions; establishing powers; providing for issuance of bonds; providing for budgetary and financial matters; providing for rights of bondholders; providing rights of employees and participation in the Florida Retirement System; providing for cooperation with other entities; providing for audits and bonds; providing for purchasing, procurement, and award of contracts; providing for execution of instruments and examination of claims; effective October 1, 2001, providing for transfer of assets and liabilities from the former consolidated Jacksonville Port Authority to the separate seaport authority and for assumption of responsibilities; making the Port Facilities Financing Act applicable to seaport operations; declaring a county and public purpose; providing for liberal construction; providing for severability; repealing chapter 2001-319, Laws of Florida, as amended; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1. Creation of Jacksonville Port Authority.—

(1) The charter provisions concerning the marine operations of the former Jacksonville Port Authority established pursuant to chapter 2001-319, Laws of Florida, as amended, are hereby repealed and the following is created for the Jacksonville Port Authority. There is hereby created and established as of October 1, 2001 a separate body politic and corporate to be known as the Jacksonville Port Authority (formerly known as the Jacksonville Seaport Authority from October 1, 2001 to July 16, 2003 and hereinafter referred to singly as the “authority”), which is created as an agency and political subdivision of the State of Florida in the nature of counties and not municipalities. This authority is authorized to exercise its jurisdiction, powers, and duties within the geographic area defined by the boundary lines of Duval County as established by section 7.16, Florida Statutes, which boundary lines also define the geographic area of the City of Jacksonville, and outside such boundary lines as hereinafter provided. The Jacksonville Port Authority shall operate, manage, and control the publicly owned seaport and ancillary facilities located within Duval County and outside such boundary lines as hereinafter provided. The authority was separated from the Jacksonville Airport Authority pursuant to chapter 2001-319, Laws of Florida,

as amended, and this separation shall be reviewed for performance and efficiency after a period of 4 years from October 1, 2001.

(2) The governing body for the Jacksonville Port Authority shall consist of seven members, four of whom shall be appointed by the Mayor of the City of Jacksonville with the confirmation of the council of the City of Jacksonville, and three of whom shall be appointed by the Governor of Florida with the confirmation of the Senate. Members shall serve for terms of 4 years commencing on October 1st of the year of the appointment or for the unexpired portion of a term deemed to have commenced on October 1st. Members of the authority, during their terms, shall serve at the pleasure of the Mayor or Governor, whoever appointed the member. Members shall continue to serve on the authority until their death, resignation, removal, or until their respective successors are appointed and confirmed. A vacancy occurring during a term of an appointed member on the authority, shall be filled only for the balance of the unexpired term unless otherwise specified in the appointment and confirmation. Any member appointed to the authority for two consecutive full terms shall not be eligible for appointment to the authority for the next succeeding term. Provided, however, notwithstanding the above, members initially appointed to the authority shall serve in staggered terms to provide continuity of experience to the authority with two gubernatorial appointments and two mayoral appointments being for initial 2-year terms, which shall count as a full term for purposes of term limits herein.

(3) The authority shall elect a chair, vice chair, secretary, and treasurer from its members, and such other officers it deems proper, not necessarily from its members, to perform such duties as the authority may direct. Four members of the authority shall constitute a quorum for the authority, but at least four members of the authority must approve any action to be taken by the authority. Resolutions adopted by the vote of at least four members of the authority shall become effective without further action by the authority. Each member of the authority shall have one vote. The yeas and nays shall be called and entered upon the minutes of each meeting upon the passage of every resolution or other action of the authority. The authority may meet at such times and places designated by it but shall hold regular meetings as necessary, and generally once a month. Special meetings of the authority may be called upon the call of its chair or any three members of the authority. The members of the authority shall not be entitled to compensation but members and employees of the authority shall be entitled to payment of reasonable expenses as provided by the council of the City of Jacksonville.

(4) The authority shall employ and fix the compensation of a managing director who shall manage the affairs of the authority under the supervision and control of the authority. Such managing director may be given any title suitable to the authority. The authority may employ such engineers, certified public accountants, consultants, and employees as it may require, and fix and pay their compensation. The authority may use any of the services available to governmental units through the Administration and Finance Department of the City of Jacksonville, but is not required by law to do so. However, the authority shall be required to use the legal services of the City

of Jacksonville, except in those cases when the chief legal officer of the city determines that the city legal staff cannot provide legal services in the required legal area. Such use of city services, including, but not limited to, legal services, shall be on contractual basis and the authority is authorized to pay the city reasonable and fair compensation for such services so furnished by the city and used by the authority. The use by the authority of any such services furnished by the city shall not obligate the authority except to the extent it contracts with the city, or otherwise subject the authority to any rules, regulations, or ordinances of said city not otherwise applicable to the authority under this act and the charter of said city. The authority may delegate to one or more of its agents or employees such of its powers as it may deem necessary to carry out the purposes of this act, subject always to the supervision and control of the authority, and may do any and all things necessary to accomplish the purposes of this act.

(5) The provisions of section 286.012, Florida Statutes, requiring any member of the authority present at a meeting to vote unless there is a possible conflict of interest, and the provisions of sections 112.311-112.3175, Florida Statutes, and as the same may be amended in the future, relating to financial disclosure and conflicts of interest, shall apply to each member of the authority.

Section 2. Definitions.—In the interpretation hereof the following words and terms shall be taken to include the following meanings when the context shall require or permit:

(1) The term “bonds” means and embraces bonds, notes, certificates, and other financial obligations issued by the authority for financing or refinancing purposes, and except where otherwise required by the context, notes, and other instruments executed to evidence obligations of the authority for the repayment of borrowed funds.

(2) The term “county” means the County of Duval.

(3) The term “city” or “City of Jacksonville” means the consolidated government of the City of Jacksonville created pursuant to section 9, Article VIII of the State Constitution.

(4) The term “federal agency” means and includes the United States, the President of the United States, and any department of, or corporation, agency, or instrumentality thereof, heretofore or hereafter created, designated, or established by the United States.

(5) Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

(6) The term “project” embraces any one or any combination of 2 or more of the following, to wit: facilities for the construction, manufacture, repair, or maintenance of boats, ships, and watercraft of all kinds, and other facilities, directly or indirectly related to the promotion and development, of waterborne and maritime activities and commerce, travel, exploration, and researching, and other harbor, port, shipping, and seaport facilities of all

kinds, including, but not limited to, harbors, channels, turning basins, anchorage areas, jetties, breakwaters, waterways, canals, locks, tidal basins, wharves, docks, piers, slips, bulkheads, warehouses, terminals, refrigerating, and cold storage plants and facilities, parking areas and facilities, intermodal and railroad and motor terminals for passengers, freight, exploration, and research, rolling stock, ferries, boats, conveyors, and appliances of all kinds for the handling, storage, inspection, and transportation of freight and the handling of passenger traffic, mail, express, and freight, administration and service buildings, toll highways, tunnels, causeways, and bridges connected therewith or incident or auxiliary thereto, and may include all property, structures, facilities, rights, easements, and franchises relating to any such project deemed necessary or convenient for the acquisition, construction, purchase, or operation thereof. The authority is authorized to use such of its real property as it deems fit for facilities for recreational programs and activities, provided, however, that such programs and activities are approved by a simple majority vote of the Jacksonville City Council.

(7) The term “cost,” as applied to improvements, means the cost of constructing or acquiring improvements as hereinabove defined and shall embrace the cost of all labor and materials, the cost of all machinery and equipment, financing charges, the cost of engineering and legal expenses, plans, specifications, and such other expenses as may be necessary or incident to such construction or acquisition.

(8) The term “cost,” as applied to a project acquired, constructed, extended, or enlarged, includes the purchase price of any project acquired, the cost of improvements, the cost of such construction, extension, or enlargement, the cost of all lands, properties, rights, easements, and franchises acquired, the cost of all machinery and equipment, financing charges, interest during construction, and if deemed advisable, for up to 1 year after completion of construction, cost of investigations and audits, and of engineering and legal services, and all other expenses necessary or incident to determining the feasibility or practicability of such acquisition or construction, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized and to the acquisition or construction of a project and the placing of the same in operation. Any obligation or expense incurred by the authority prior to the issuance of revenue bonds under the provisions of this act for engineering studies and for estimates of cost and of revenue and for other technical, financial, or legal services in connection with the acquisition or construction of any project may be regarded as a part of the cost of such project.

Section 3. Powers.—The authority shall have the below specified powers (in addition to other powers otherwise conferred by law) and shall also have all powers that relate to maritime issues vested in the former Jacksonville Port Authority:

(1) To adopt, use, and alter at will a corporate seal; to sue and be sued, implead and be impleaded, complain, and defend in all courts; to exercise the power of eminent domain to acquire property for any authorized purposes, including the taking of such property ancillary to said power in the manner from time to time provided by the laws of the State of Florida; to accept

grants, gifts, and donations; and to enter into contracts, leases, or other transactions with any legal entity, person, federal agency, the state, any agency of the state, the County of Duval, the City of Jacksonville, or with any other public body of the state.

(2) To adopt rules and regulations with reference to all projects and matters under the control of the authority. All rules and regulations promulgated and all impositions and exactions made by the authority hereof shall be just and reasonable and consistent with public interest and their application shall be subject to review by certiorari in any court of proper and competent jurisdiction. All rules and regulations shall be a matter of public record (except as otherwise provided by applicable law) and copies thereof shall be dispensed at cost to all applicants therefor.

(3) To construct, acquire, establish, improve, extend, enlarge, reconstruct, re-equip, maintain, repair, and operate any project as herein defined.

(4) Subject to the jurisdiction of the United States and the State of Florida, to construct, establish, and improve harbors within the county, to improve navigable waters within the county, and to construct and maintain canals, slips, turning basins, and channels, all upon such terms and conditions as may be required by the United States and the State of Florida.

(5) To acquire for any project authorized by this act by grant, purchase, gift, devise, condemnation by eminent domain proceedings, exchange, or in any other manner, all property, real or personal, or any estate or interest therein, upon such terms and conditions as the authority shall by resolution fix and determine. The right of eminent domain herein conferred shall be exercised by the authority in the manner provided by law.

(6) To issue revenue bonds, payable solely from revenues, to pay all or a part of the cost of acquisition, construction, extension, enlargement, improvement, or modernization of any project and to pledge the revenues to secure the payment of bonds.

(7) To enter into arrangements with steamship lines, railroads, any intermodal or common carrier, or any other commercial enterprise, related to the authority's basic mission, if the authority shall deem it advantageous so to do.

(8) To make and enter into all contracts and agreements and to do and perform all acts and deeds necessary and incidental to the performance of the duties of the authority and the exercise of its powers; to make and execute leases or agreements for the use and occupation of the property and/or projects under the control of the authority on such terms, conditions, and period of time as it may determine; and to sell and dispose of such property and/or projects as shall no longer be needed for the uses and purposes of the authority on such terms and conditions as shall be prescribed by resolution of the authority; however, before disposing of any real property which was acquired from either the city or county, other than by purchase or by swap, the authority shall give written notice to the governmental unit from which such real property was acquired. If said governmental unit desires to accept a reconveyance of said real property, it shall give

the authority written notice of such intention within 30 days from the date of mailing of the authority's notice regarding the disposal of such property, and the authority shall make the reconveyance of such property to said governmental unit forthwith. If within such 30 days, said governmental unit does not notify the authority in writing of a desire to accept a reconveyance of said property or refuses to accept a reconveyance of same the authority may sell and dispose of same on such terms and conditions as shall be prescribed by resolution of the authority. The authority shall not sell real property for less than the appraised value.

(9) To the extent permitted by law to fix, regulate, and collect rates and charges for the services and facilities furnished by any project under the control of the authority, and to establish, limit, and control the use of any project as may be deemed necessary to ensure the proper operation of the project; and to impose sanctions to promote and enforce compliance with any rule or regulation which the authority may adopt in the regulation of the ports, harbors, wharves, docks, and other projects under its control.

(10) To fix the rates for wharfage, dockage, warehousing, storage, and port and terminal charges for the use of the facilities owned or operated by the authority.

(11) To solicit shipping lines, intermodal or common carriers, and other businesses and to do all things necessary or advisable to promote commerce and increase passenger traffic and freight tonnage through the seaport operated by the authority; to publicize, advertise, and promote the activities and projects authorized by this act and to promote the objects of the authority in the manner set forth by resolution of the authority; to make known to the users, potential users, and public in general the advantages, facilities, resources, products, attractions, and attributes of the activities and projects authorized by this act; to further create a favorable climate of opinion concerning the activities and projects authorized and indicated by this act; to cooperate, including expenditure of funds, to and with other agencies, both public and private, in accomplishing the purposes enumerated and indicated by this act; and in furtherance thereof, to authorize expenditures for any and all of the purposes herein enumerated, including, but not limited to, meals, hospitality, and entertainment of persons in the interest of promoting and engendering good will toward the activities and projects herein authorized, provided, however, that funds obtained under chapters 159 and 315, Florida Statutes, may not be used for such purposes. Whenever an expenditure of funds for any of the foregoing purposes is made by a member or employee of the authority, the authority may reimburse such member or employee therefor, but only in the manner duly authorized by the authority.

(12) To receive and accept from any federal or state agency grants for or in aid of the construction, improvement, or operation of any project and to receive and accept contributions from any source of money, property, labor, or other things of value.

(13) To make any and all applications required by the Treasury Department and other departments or agencies of the federal government as a condition precedent to the establishment within or without the county of a

free port, foreign trade zone, or area for the reception from foreign countries of articles or commerce and to expedite and encourage foreign commerce, and the handling, processing, and delivery thereof into foreign commerce free from the payment of custom duties and, provided there is an economic benefit to the authority and/or Duval County, to enter into any agreements required by such departments or agencies in connection therewith and to make like applications and agreements with respect to the establishment within and without said county of one or more bonded warehouses.

(14) To enter into any contract with a legal entity, person, the State of Florida, the federal government, or any agency of said governments, which may be necessary for development of any project related to the authority's basic mission.

(15) To make or cause to be made such surveys, investigations, studies, borings, maps, plans, drawings, and estimates of cost and revenues as the authority may deem necessary and may prepare and adopt a comprehensive plan or plans, for the location, construction, improvement, and development of any project.

(16) To grant exclusive or non-exclusive franchises to persons, firms, or corporations for the operation of restaurants, cafeterias, bars, cigar and cigarette stands, newsstands, buses, taxicabs, vending machines, hotels, motels, service stations, real estate developments, and other concessions in, on, and in connection with any property and/or project owned and operated by the authority. In granting such franchises it shall be the duty of the authority to investigate and consider the qualifications and ability of the lessee or concessionaires to provide or perform the contemplated services and the revenues which will be derived therefrom by the authority and to exercise sound prudent business judgment on behalf of the authority with respect thereto, calling for bids when practicable and when the interests of the public will best be served by such action.

(17) To enter into contracts with utility companies or others for the supplying by said utility companies or others of water, electricity, or telephone service to or in connection with any project.

(18) To pledge by resolution or contract the revenues arising from the operation of any project or projects owned and operated by the authority, or under its control, to the payment of the cost of operation, maintenance, repair, improvement, extension, or enlargement of the project or projects from the operation of which such revenues are received and for the payment of principal and interest on bonds issued in connection with any such project or projects and to combine for financing purposes any two or more projects constructed or acquired by the authority under the provisions of this act. In any such case the authority may adopt separate budgets for the operation of such project or projects. In every such case such revenues shall be expended exclusively for the payment of the costs of operation, maintenance, repair, improvement, extension, and enlargement of the project or projects from the operation of which such revenues arise, for the performance of the authority's contracts in connection with such project or projects, and for the payment of principal of premium, if any, and interest requirements of any

bonds issued in connection with the project or projects. Any surplus of such funds remaining on hand at the end of any year shall be carried forward and may be expended in the succeeding year for the payment of the costs of operation of such project or projects or for the repair, improvement, or extension thereof as the authority may determine, unless such surplus has been pledged for the payment of principal of premium, if any, and interest on bonds, as authorized in subsections (1)-(6) of section 4, in which event any such surplus shall be applied in accordance with the resolution pledging the same.

(19) To do all other acts and things necessary or proper in the exercise of the powers herein granted.

(20) To do all acts or things necessary or proper to be and serve as a local governmental body within the meaning of section 10(c)(2), Article VII of the State Constitution, with respect to any project as defined therein.

(21) To appoint officers for the administration of criminal justice as set forth by general law.

Section 4. Issuance of bonds.—

(1) The authority is authorized to issue general obligation bonds or revenue bonds of the authority for the purpose of paying all or a part of the cost of any one or more projects as herein defined, including the cost of enlargement, expansion, or development of such project whether the property used therefor has previously been acquired or not, and the cost of removing therefrom or relocating or reconstructing at another location any buildings, structures, or facilities, which in the opinion of the authority constitute obstructions or hazards to the safe or efficient operation of any such project and for the purpose of paying off and retiring any bonds issued or assumed under the provisions of this act.

(2) The bonds of each issue shall be authorized by resolution of the authority and shall be dated, shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. The resolution authorizing the issuance of the bonds shall contain such provisions relating to the use of the proceeds from the sale of the bonds and for the protection and security of holders of the bonds, including their rights and remedies, and the rights, powers, privileges, duties, and obligations of the authority with respect to the same, as shall be determined by the authority. In case any officer whose signature or facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes to the same extent as if such officer had remained in office until such delivery. The bonds

may be issued in coupon registered or book entry form, as the authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(3) Prior to any public sale of bonds, the authority may, in addition to any other publication and notice to the financial community, cause notice to be given by publication in a daily newspaper published and having a general circulation in the city that the authority will receive bids for the purchase of the bonds at the office of the authority in the city. Said notice may be published once not less than 15 days prior to the date set for receiving the bids. Said notice may specify the amount of the bonds offered for sale, state that the bids shall be sealed bids, and give the schedule of the maturities of the proposed bonds and such other pertinent information as may be prescribed in the resolution authorizing the issuance of such bonds or any resolution subsequent thereto. Bidders may be invited to name the rate or rates of interest which the bonds are to bear or the authority may name rates of interest and invite bids thereon. In addition to publication of notice of the proposed sale, a copy of such advertisement shall be given to the Florida Division of Bond Finance and to at least three recognized bond dealers in the state, in the time established by applicable law.

(4) Except as otherwise provided in this subsection, bonds and refunding bonds issued pursuant to this act may be sold at public sale and shall be awarded to the bidder whose bid produces the lowest true interest cost to the authority. The authority shall reserve the right to reject any or all bids. Notwithstanding the foregoing, bonds and refunding bonds issued pursuant to this act may be sold at private sale at such price or prices as the authority shall determine to be in its best interest. However, any price less than 100 percent of par value shall be subject to section 215.84, Florida Statutes, as it may be amended from time to time. In no event shall said bonds be sold at a net interest cost to the authority in excess of the legal limit, as established by section 215.84, Florida Statutes, or according to said section as it may be amended from time to time. The net interest cost of bonds shall be determined by taking the aggregate amount of interest at the rate or rates specified in the bonds, computed from the date of the bonds to the date of the various stated maturities thereof, and deducting therefrom the amount of any premium offered in excess of the par value of the bonds or adding thereto the amount of any discount offered below the par value of the bonds with interest computed on a 360-day basis. Pending the preparation of definitive bonds, interim bonds may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

(5) The authority shall require all bidders for said bonds to enclose a certified or bank cashier's check, in the amount of 2 percent of the total par value of the bonds offered for sale, drawn on an incorporated bank or trust company payable unconditionally to the order of the authority, as a guarantee of good faith in the performance of each bid. The checks of the unsuccessful bidders shall be returned immediately upon the award of the bonds and the check of the successful bidder shall be retained by the authority and

credited against the full purchase price of the bonds at the time of delivery or retained as and for liquidated damages in case of the failure of such bidder to fulfill the terms of his or her bid.

(6) No general obligation bonds shall be issued by the authority hereunder unless the issuance of such bonds shall have been approved by a majority of the votes cast by qualified voters in an election held for such purpose. Whenever the authority, by resolution, requests the council of the City of Jacksonville to hold such an election, said council shall, on behalf of the authority, hold, conduct, canvass, and announce the results of such election in accordance with the procedure prescribed by law for the issuance of county bonds. The expenses of such election shall be paid by the authority. In no event shall such general obligation bonds be construed or considered to be bonds of the City of Jacksonville or any other municipality but shall be solely bonds of the authority that issues the bonds.

(7) The authority is authorized to borrow money and to issue notes for any purpose or purposes for which bonds may be issued under the provisions of this act and to refund the same and to issue notes in anticipation of the receipt of the proceeds of the sale of any such bonds.

(8) Subject to the restrictions contained in subsections (2), (3), and (4) of section 4., the authority shall have the power to provide for the issuance of refunding bonds of the authority for the purpose of refunding any revenue bonds or general obligation bonds, or any combination of general obligation or revenue bonds then outstanding which have been assumed by the authority or issued for the purpose of financing the cost of making enlargements, extensions, and improvements to any project acquired, constructed, or operated under the provisions of this act. The authority is further authorized to provide for the issuance of revenue bonds or general obligation bonds, or any combination thereof, of the authority for the combined purpose of:

(a) Paying the cost of enlargement, extension, reconstruction, or improvement of any project or combination of projects.

(b) Refunding revenue bonds or general obligation bonds, or any combination thereof, which have been assumed by the authority under the provisions of this act (or its predecessor act) which shall then be outstanding and which shall then have matured or be subject to redemption or can be acquired for retirement. The issuance of such bonds, the maturities or other details thereof, the rights or remedies of the holders thereof, and the rights, powers, privileges, duties, and obligations of the authority with respect to the same shall be set forth in the resolution of the authority authorizing the issuance of such bonds.

Section 5. Budget and finance.—The fiscal year of the authority shall commence on October 1 of each year and end on the following September 30. The authority shall prepare and submit its budget to the council of the City of Jacksonville on or before July 1 for the ensuing fiscal year. The council, consistent with the provisions of the Charter of the City of Jacksonville, may increase or decrease the appropriation (budget) requested by the authority on a total basis or a line-by-line basis; however, the appropriation for construction, reconstruction, enlargement, expansion, improvement, or devel-

opment of any project or projects authorized to be undertaken by the former Jacksonville Port Authority and the authority shall not be reduced below \$800,000 for each year that the bonds to which the \$800,000 is pledged remain outstanding.

Section 6. Rights of bondholders.—All bonds issued by the City of Jacksonville or the former Jacksonville Port Authority related to properties transferred to the authority and bonds issued under authority of chapter 63-1447, Laws of Florida, remain the liability, responsibility, and obligation of the issuer and the rights of the holders of existing outstanding bonds shall be unimpaired. Rights, duties, and obligations of the authority with respect to the property transferred to it by the former Jacksonville Port Authority are ratified and remain unchanged.

Section 7. Rights of employees.—All employment rights and employee benefits authorized under section 11, chapter 63-1447, Laws of Florida, as amended, are hereby confirmed, ratified, and continued, notwithstanding the repeal of said chapter 63-1447, Laws of Florida, as amended. Effective October 1, 2001, in order to preserve the rights of employees of the former Jacksonville Port Authority to continue participation in the Florida Retirement System pursuant to chapter 121, Florida Statutes, the authority created by this act (and its predecessor act) shall be a county agency and employees of the authority shall participate in the Florida Retirement System, notwithstanding any law to the contrary. Effective October 1, 2001, those employees of the Jacksonville Port Authority who were assigned to any activity related to the operation of the marine facilities shall become employees of the Jacksonville Port Authority created by this act (and its predecessor act). Effective October 1, 2001, central administrative employees shall be employed by either the authority created by this act (and its predecessor act) or the Jacksonville Airport Authority, or as otherwise agreed by both the authority and the Jacksonville Airport Authority. It is expressly provided that none of those employees of the former Jacksonville Port Authority who remain with the authority created by this act (and its predecessor act) shall lose any rights or benefits of whatsoever kind or nature afforded to them by any law, ordinance, collective bargaining agreement, or existing policy or plan, including, but not limited to, pension benefits by virtue of the change in corporate structure. In order to effectively implement the foregoing, the authority shall perform all functions with regard to its own employees that prior to the operation of the two authorities created by this act (and its predecessor act) were performed by the former Jacksonville Port Authority. In order to specifically preserve the rights of employees of the former Jacksonville Port Authority to continue participation in the Florida Retirement System, pursuant to chapter 121, Florida Statutes, the authority created by this act (and its predecessor act) shall be a county authority and employees of this authority who are currently participating in the Florida Retirement System and all employees of the authority after October 1, 2001, shall participate in the Florida Retirement System.

Section 8. Cooperation with other units, boards, agencies, legal entities and persons.—Express authority and power is hereby given and granted any county, municipality, drainage district, road and bridge district, school district, or any other political subdivision, board, commission, or individual in,

or of, the state to make and enter into with the authority, contracts, leases, conveyances, or other agreements within the provisions and purposes of this act. The authority is hereby expressly authorized to make and enter into contracts, leases, conveyances, and other agreements with any political subdivision, agency, or instrumentality of the state and any and all federal agencies, legal entities and persons for the purpose of carrying out the provisions of this act.

Section 9. Audits; bonds.—The authority shall issue quarterly and annually financial reports of its operations and shall also cause annual audits to be made of its operations and affairs by an independent certified public accountant, in such detail as may be necessary to show the financial operation and status of the authority, and the same shall be preserved as public records of the authority. The authority's records may be audited at any time by the Council Auditor of the City of Jacksonville. Members of the authority shall be required to give a good and sufficient surety bond in the sum of \$50,000, payable to the City of Jacksonville, conditioned upon the faithful performance of their duties as members of the authority. Such bonds shall be approved by and filed with the clerk of the circuit court of Duval County, and the premium or premiums thereon shall be paid by the authority as a necessary expense of the authority. The authority shall have power to require its managing director and such others of its employees as they may deem necessary to furnish good and sufficient surety bond in such sum as the authority shall require, conditioned upon the faithful performance of duties, and to pay the premium or premiums thereon as a necessary expense of the authority.

Section 10. Award of contracts.—

(1) If the total cost, value, or amount of construction, reconstruction, repairs, or work of any nature, including the labor and materials, exceeds \$50,000 when purchased by the authority, any such construction, reconstruction, repairs, or work exceeding the foregoing amount established for the authority shall be done only under contract or contracts to be entered into by the authority with the lowest responsible bidder upon proper terms and after due public notice has been given asking for competitive bids as hereinafter provided. The foregoing requirement for competitive bidding shall not apply to construction, reconstruction, repairs, or work done by employees of the authority or by labor supplied under agreement with the federal or state government. The authority shall keep a current list of responsible bidders and, whenever the authority shall award a contract, the bidder shall come from such list. No contract shall be entered into for construction, improvement, or repair of any project, or any part thereof, unless the contractor shall have given an undertaking with a sufficient surety or sureties, approved by the authority, and in an amount fixed by the authority, for the faithful performance of the contract. All such contracts shall provide, among other things, that the person or corporation entering into such contract with the authority shall pay for all materials furnished and services rendered for the performance of the contract and that any person or corporation furnishing such materials or rendering such services may maintain an action to recover for the same against the obligor in the undertaking, as though such person or corporation were named therein, provided

the action is brought within 1 year after the time the cause of action accrued. Nothing in this section shall be construed to limit the power of the authority to construct any project, or any part thereof, or any addition, betterment, or extension thereto, directly by the officers, agents, and employees of the authority, or otherwise, other than by contract.

(2) All supplies, equipment, machinery, and materials exceeding \$25,000 in cost purchased by the authority shall be purchased by the authority only after due advertisement as provided hereinafter. When purchasing supplies, equipment, machinery, and materials pursuant to competitive bid as mandated herein, the authority shall accept the lowest bid or bids, kind, quality, and material being equal but the authority shall have the right to reject any or all bids or select a single item from any bid. The provision as to bidding shall not apply to the purchase of patented and manufactured products offered for sale in a noncompetitive market or solely by a manufacturer's authorized dealer.

(3) The term "advertisement" or "due public notice" wherever used in this section means a notice published at least once a week for 2 consecutive weeks before the award of any contract, in a daily newspaper published and having a general circulation in the county, and in such other newspapers or publications as the authority shall deem advisable.

(4) Subject to the aforesaid provisions, the authority may, but without intending by this provision to limit any powers of the authority, enter into and carry out such contract or establish or comply with such rules and regulations concerning labor and materials and other related matters in connection with any project, or portion thereof, as the authority may deem desirable or as may be requested by the federal or state government assisting in the financing of its projects, seaport facilities, and facilities related thereto, or any part thereof, provided the provisions of this subsection shall not apply to any case in which the authority has taken over by transfer or assignment any contract assigned to it or assumed by it in connection with the transfer of city and county properties authorized under the provisions of sections 11 and 12, or to any contract in connection with projects which the authority may have had transferred to it by any persons or private corporations, and further provided the provisions of this section shall not apply to any contract or agreement between the authority and any engineers, architects, attorneys, or other professional services or to any contract or agreement relating to fiscal advisors, fiscal agents, or investment bankers, relating to the financing of projects herein authorized.

Section 11. Execution of instruments; examination of claims.—All instruments in writing necessary to be signed by the authority shall be executed by its chair and secretary. The authority may, by resolution, designate one or more officers, members, employees, or agents of the authority to execute instruments in writing where it is necessary that such instruments be signed by the authority. No expenditure of funds of the authority shall be made except by voucher approved by the authority and signed by its chair and secretary, or by one or more officers, members, or employees of the authority as the authority may designate by resolution. The foregoing authority of the chair may be exercised by the vice chair in the absence of the

chair and the foregoing authority of the secretary may be exercised by an assistant secretary designated by the authority in the absence of the secretary. The authority shall provide for the examination of all payrolls, bills, and other claims and demands against the authority to determine before the same are paid that they are duly authorized, in proper form, correctly computed, legally due and payable, and that the authority has funds on hand to make payment.

Section 12. Transfer of assets and liabilities.—The former Jacksonville Port Authority shall take all actions necessary to convey, assign, transfer, and set over:

(1) All of the right, title, and interests of the former Jacksonville Port Authority in and to its marine port facilities, including, without limitation, its real and personal property and any interests therein, books, records, contracts, leases, and all other property of any kind or nature related to the operation of the marine port, by operation of this act (and its predecessor act), and without further act, to the authority.

(2) All contracts and leases relating to the former Jacksonville Port Authority's marine port operations, shall, by operation of this act (and its predecessor act), and without further act, become contracts and leases of the authority.

(3) All accounts receivable, accounts payable, and cash on hand relating to the former Jacksonville Port Authority's marine port operations shall, by operation of this act (and its predecessor act), and without further act, be transferred or delivered to the authority.

(4) All operating expenses, including taxes of all kinds and all revenue and expense accruals of the former Jacksonville Port Authority's marine operations shall be transferred to the authority, on the effective date at transfer.

(5) The conveyances specified in this section shall be effective as of October 1, 2001.

Section 13. Chapter 315, Florida Statutes, relating to port facilities financing, also applicable.—The provisions of chapter 315, Florida Statutes, relating to port facilities financing, shall also be applicable to the authority.

Section 14. Declaration of purposes.—The authority created by this act and the purposes which it is intended to serve is hereby found to be for a county and public purpose. The authority is a political subdivision of the State of Florida, local governmental body within the meaning of section 10(c)(2), Article VII of the State Constitution. Nothing in this act is intended to create an entity which is exempt from ad valorem taxation except as otherwise set forth by applicable law.

Section 2. The powers of the authority created by this act shall be construed liberally in favor of the authority. No listing of powers included in this act is intended to be exclusive or restrictive and the specific mention of, or failure to mention, particular powers in this act shall not be construed as

limiting in any way the general powers of the authority as stated in section 3. It is the intent of this act to grant the authority full power and right to exercise all authority necessary for the effective operation and conduct of the authority. It is further intended that the authority should have all implied powers necessary or incidental to carrying out the expressed powers and the expressed purposes for which the authority is created. The fact that this article specifically states that the authority possesses a certain power does not mean that the authority must exercise such power unless this article specifically so requires.

Section 3. The provisions of this act are severable and it is the intention to confer the whole or any part of the powers provided for herein and if any of the provisions of this act shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Section 4. Effective on the effective date of this act, as defined below, chapters 2001-319, 2002-349, and 2003-341, Laws of Florida, are hereby repealed.

Section 5. This act shall take effect upon becoming a law.

Approved by the Governor June 17, 2004.

Filed in Office Secretary of State June 17, 2004.