

AN ACT concerning local government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Upper Mississippi River International Port District Act.

Section 2. Definitions. When used in this Act:

"Aircraft" means any contrivance now known or hereafter invented, used or designed for navigation of, or flight in, the air.

"Airport" means any locality, either land or water, which is used or designed for the landing and taking off of aircraft, or for the location of runways, landing fields, airdromes, hangars, buildings, structures, airport roadways, and other facilities.

"Airport hazard" means any structure or object of natural growth located on or in the vicinity of an airport, or any use of land near an airport, which is hazardous to the use of the airport for the landing and taking off of aircraft.

"Approach" means any path, course, or zone defined by an ordinance of the District or by other lawful regulation, on the ground, in the air, or both, for the use of aircraft in landing and taking off from an airport located within the District.

"Board" means Upper Mississippi River International Port

District Board.

"Commercial aircraft" means any aircraft other than public aircraft engaged in the business of transporting persons or property.

"District" means the Upper Mississippi River International Port District created by this Act.

"General obligation bond" means any bond issued by the District any part of the principal or interest of which bond is to be paid by taxation.

"Governmental agency" means the United States, the State of Illinois, any local governmental body, and any agency or instrumentality, corporate or otherwise, thereof.

"Governor" means the Governor of the State of Illinois.

"Intermodal" means a type of international freight system that permits transshipping among rivers, sea, highway, rail, and air modes of transportation through use of ANSI/International Organization for Standardization containers, line haul assets, and handling equipment.

"Navigable waters" mean any public waters that are or can be made usable for water commerce.

"Person" means any individual, firm, partnership, trust, corporation, both domestic and foreign, company, association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

"Port facilities" means all public and other buildings, structures, works, improvements, and equipment, except

terminal facilities as defined in this Section, that are upon, in, over, under, adjacent, or near to navigable waters, harbors, rivers, slips, and basins and that are necessary or useful for or incident to the furtherance of water and land commerce and the operation of small boats and pleasure craft.

"Port facilities" includes the excavating, widening, and deepening of basins, slips, harbors, rivers and navigable waters. Port facilities also means all lands, buildings, structures, improvements, equipment, and appliances located on district property that are used for industrial, manufacturing, commercial, or recreational purposes.

"Private aircraft" means any aircraft other than public and commercial aircraft.

"Public aircraft" means an aircraft used exclusively in the governmental service of the United States, or of any state or any public agency, including military and naval aircraft.

"Public airport" means an airport owned by a Port District, an airport authority, or other public agency, which is used or is intended for use by public, commercial and private aircraft and by persons owning, managing, operating or desiring to use, inspect or repair any such aircraft or to use any such airport for aeronautical purposes.

"Public incinerator" means a facility for the disposal of waste by incineration by any means or method for public use, including, but not limited to, incineration and disposal of industrial wastes.

"Public interest" means the protection, furtherance, and advancement of the general welfare and of public health and safety and public necessity and convenience.

"Revenue bond" means any bond issued by the District the principal and interest of which bond is payable solely from revenues or income derived from terminal, terminal facilities or port facilities of the District.

"Terminal" means a public place, station, or depot for receiving and delivering baggage, mail, freight, or express matter and for any combination of such purposes, in connection with the transportation of persons and property on water or land or in the air.

"Terminal facilities" means all land, buildings, structures, improvements, equipment, and appliances useful in the operation of public warehouse, storage, and transportation facilities and industrial, manufacturing, processing and conversion activities for the accommodation of or in connection with commerce by water, land, or air or useful as an aid to further the public interest, or constituting an advantage or convenience to the safe landing, taking off, and navigation of aircraft, or the safe and efficient operation or maintenance of a public airport; except that nothing in this definition shall be interpreted as granting authority to the District to acquire, purchase, create, erect, or construct a bridge across any waterway which serves as a boundary between the State of Illinois and any other state.

Section 3. Upper Mississippi River International Port District created. There is created a political subdivision, body politic, and municipal corporation by the name of the Upper Mississippi River International Port District embracing all the area within the corporate limits of Carroll County and Jo Daviess County. Territory may be annexed to the District in the manner provided in this Act. The District may sue and be sued in its corporate name, but execution shall not in any case issue against any property of the District. It may adopt a common seal and change the same at its pleasure.

Section 4. Property of District; exemption. All property of every kind belonging to the Upper Mississippi River International Port District shall be exempt from taxation, provided that a tax may be levied upon a lessee of the District by reason of the value of a leasehold estate separate and apart from the fee or upon any improvements that are constructed and owned by persons other than the District.

All property of the Upper Mississippi River International Port District shall be construed as constituting public grounds owned by a municipal corporation and used exclusively for public purposes within the tax exemption provisions of Sections 15-10, 15-15, 15-20, 15-30, 15-75, 15-140, 15-155, and 15-160 of the Property Tax Code.

Section 5. Duties. The Port District shall have all of the following duties:

(a) To study the existing harbor plans within the area of the District and to recommend to the appropriate governmental agency, including the General Assembly, any changes and modifications that may, from time to time, be required by continuing development and to meet changing business and commercial needs.

(b) To make an investigation of conditions within the area of the District and to prepare and adopt a comprehensive plan for the development of port facilities and intermodal facilities for the District. In preparing and recommending changes and modifications in existing harbor plans or a comprehensive plan for the development of port facilities and intermodal facilities, the District may, if it deems desirable, set aside and allocate an area or areas within the land acquired by it or held by it to be used and operated by the District or leased to private parties for industrial, manufacturing, commercial, recreational, or harbor purposes, where the area or areas are not, in the opinion of the District, required for its primary purposes in the development of intermodal, harbor, and port facilities for the use of public water and land transportation, or will not be immediately needed for those purposes, and where the use and operation or leasing will in the opinion of the District aid and promote the development of intermodal, terminal, and port

facilities.

(c) To study and make recommendations to the proper authority for the improvement of terminal, lighterage, wharfage, warehousing, transfer, and other facilities necessary for the promotion of commerce and the interchange of traffic within, to, and from the District.

(d) To study, prepare, and recommend by specific proposals to the General Assembly changes in the jurisdiction of the District.

(e) To petition any federal, State, municipal, or local authority, administrative, judicial, and legislative, having jurisdiction in the District for the adoption and execution of the physical improvement, change in method, system of handling freight, warehousing, docking, lightering, and transfer freight that, in the opinion of the District, may be designed to improve or better the handling of commerce in and through the District or improve terminal or transportation facilities within the District.

(f) To foster, stimulate, and promote the shipment of cargoes and commerce through ports, whether originating within or without the State of Illinois or the United States of America.

(g) To acquire, construct, own, lease, and develop terminals, harbors, wharf facilities, piers, docks, warehouses, bulk terminals, grain elevators, boats, and other harbor crafts, and any other port facility or port-related

facility or service, such as railroads, that it finds necessary and convenient.

(h) To perform any other act or function that may tend to or be useful toward development and improvement of harbors, river ports, and port-related facilities and services and to increase foreign and domestic commerce through the harbors and ports within the Port District.

(i) To study and make recommendations for river resources management and environmental education within the District, including but not limited to, wetlands banks, mitigation areas, water retention and sedimentation areas, fish hatcheries, or wildlife sanctuaries, natural habitat, and native plant research.

Section 6. Changes in harbor plans. Any changes and modifications in harbor plans within the area of the Port District from time to time recommended by the District or any comprehensive plan for the development of the port facilities adopted by the District under the authority granted by this Act shall be submitted to the Department of Natural Resources for approval, and approval by the Department of Natural Resources shall be conclusive evidence, for all purposes, that these changes and modifications conform to the provisions of this Act.

Section 7. Rights and powers. The Port District shall have

the following rights and powers:

(a) to issue permits for the construction of all harbors, wharves, piers, dolphins, booms, weirs, breakwaters, bulkheads, jetties, bridges, or other structures of any kind over, under, in, or within 40 feet of any navigable waters within the District; for the excavation or deposit of rock, earth, sand, or other material; or for any matter of any kind or description in those waters;

(b) to prevent or remove obstructions, including the removal of wrecks;

(c) to locate and establish dock lines and shore or harbor lines;

(d) to acquire, own, construct, sell, lease, operate, and maintain port and harbor, water, and land terminal facilities and, subject to the provisions of Section 8, to operate or contract for the operation of those facilities, and to fix and collect just, reasonable, and non-discriminatory charges, rentals, or fees for the use of those facilities. The charges, rentals, or fees so collected shall be made available to defray the reasonable expenses of the District and to pay the principal of and interest on any revenue bonds issued by the District;

(e) to enter into any agreement or contract with any airport for the use of airport facilities to the extent necessary to carry out any of the purposes of the District;

(f) to locate, establish, and maintain a public airport,

public airports, and public airport facilities within its corporate limits or within or upon any body of water adjacent thereto, and to construct, develop, expand, extend, and improve any such airport or airport facilities;

(g) to operate, maintain, manage, lease, or sublease for any period not exceeding 99 years, and to make and enter into contracts for the use, operation, or management of, and to provide rules and regulations for, the operation, management, or use of any public airport or public airport facility;

(h) to fix, charge, and collect reasonable rentals, tolls, fees, and charges for the use of any public airport, or any part thereof, or any public airport facility;

(i) to establish, maintain, extend, and improve roadways and approaches by land, water, or air to any such airport and to contract or otherwise provide, by condemnation if necessary, for the removal of any airport hazard or the removal or relocation of all private structures, railways, mains, pipes, conduits, wires, poles, and all other facilities and equipment which may interfere with the location, expansion, development, or improvement of airports or with the safe approach thereto or take off there from by aircraft, and to pay the cost of removal or relocation; and, subject to the Airport Zoning Act, to adopt, administer and enforce airport zoning regulations for territory which is within its corporate limits or which extends not more than 2 miles beyond its corporate limits;

(j) To the extent authorized by the Intergovernmental

Cooperation Act, to enter into any agreements with any other public agency of this State, including other port districts;

(k) To the extent authorized by any interstate compact, to enter into agreements with any other state or unit of local government of any other state; and

(l) To enter into contracts dealing in any manner with the objects and purposes of this Act.

(m) To police its physical property only and all waterways and to exercise police powers in respect thereto or in respect to the enforcement of any rule or regulation provided by the ordinances of the District and to employ and commission police officers and other qualified persons to enforce the same. The use of any such public airport or public airport facility of the District shall be subject to the reasonable regulation and control of the District and upon such reasonable terms and conditions as shall be established by its Board. A regulatory ordinance of the District adopted under any provision of this Section may provide for a suspension or revocation of any rights or privileges within the control of the District for a violation of any such regulatory ordinance. Nothing in this Section or in other provisions of this Act shall be construed to authorize the Board to establish or enforce any regulation or rule in respect to aviation, or the operation or maintenance of any airport facility within its jurisdiction, which is in conflict with any federal or State law or regulation applicable to the same subject matter;

(n) To establish, employ, and provide a fire protection unit within the physical property of the District;

(o) To acquire, own, sell, convey, construct, lease for any period not exceeding 99 years, manage, operate, expand, develop, and maintain any telephone system, including, but not limited to, all equipment, materials, and facilities necessary or incidental to that telephone or other communication system, for use, at the option of the District and upon payment of a reasonable fee set by the District, of any tenant or occupant situated on any former military base owned or leased by the District or which is located within its jurisdictional boundaries;

(p) To acquire, operate, maintain, manage, lease, or sublease for any period not exceeding 99 years any former military base owned or leased by the District and within its jurisdictional boundaries, to make and enter into any contract for the use, operation, or management of any former military base owned or leased by the District and located within its jurisdictional boundaries, and to provide rules and regulations for the development, redevelopment, and expansion of any former military base owned or leased by the District or which is located within the jurisdictional boundaries of the District;

(q) To acquire, locate, establish, re-establish, expand or renew, construct or reconstruct, operate, and maintain any facility, building, structure, or improvement for a use or a

purpose consistent with any use or purpose of any former military base owned or leased by the District or which is located within its jurisdictional boundaries;

(r) To cause to be incorporated one or more subsidiary business corporations, wholly owned by the District, to own, operate, maintain, and manage facilities and services related to any telephone or other communication system, pursuant to paragraph (o) of this Section. A subsidiary corporation formed pursuant to this paragraph shall (i) be deemed a telecommunications carrier, as that term is defined in Section 13-202 of the Public Utilities Act, (ii) have the right to apply to the Illinois Commerce Commission for a Certificate of Service Authority or a Certificate of Interexchange Service Authority, and (iii) have the powers necessary to carry out lawful orders of the Illinois Commerce Commission;

(s) To acquire, improve, develop, or redevelop any former military base situated within the boundaries of the District, in Carroll County, Jo Daviess County, or both, and acquired by the District from the federal government, acting by and through the United States Maritime Administration, pursuant to any plan for redevelopment, development, or improvement of that military base by the District that is approved by the United States Maritime Administration under the terms and conditions of conveyance of the former military base to the District by the federal government.

Section 8. Contracts for the operation of warehouses and storage facilities. Any public warehouse or other public storage facility owned or otherwise controlled by the District shall be operated by persons under contracts with the District. Any contract shall reserve reasonable rentals or other charges payable to the district sufficient to pay the cost of maintaining, repairing, regulating, and operating the facilities and to pay the principal of and interest on any revenue bonds issued by the District and may contain any other conditions that may be mutually agreed upon. However, upon the breach of a contract or if no contract is in existence as to any facility, the District shall temporarily operate the facility until a contract for its operation can be negotiated.

Section 9. Procedure for leases or contracts for operation of warehouses and storage facilities. All leases or other contracts for operation of any public warehouse or public grain elevator to which this Section is applicable owned or otherwise controlled by the District shall be governed by the following procedures. Notice shall be given by the District that bids will be received for the operation of the public warehouse or public grain elevator. This notice shall state the time within which and the place where bids may be submitted, the time and place of opening of bids, and shall be published not more than 30 days nor less than 15 days in advance of the first day for the submission of bids in any one or more newspapers designated

by the District that have a general circulation within the District. The notice shall specify sufficient data of the proposed operation to enable bidders to understand the scope of the operation; provided, however, that contracts that by their nature are not adapted to award by competitive bidding, such as contracts for the services of individuals possessing a high degree of personal skill, contracts for the purchase or binding of magazines, books, periodicals, pamphlets, reports, and similar articles, and contracts for utility services such as water, light, heat, telephone, or telegraph, shall not be subject to the competitive bidding requirements of this Section, but may not be awarded without the affirmative vote of three-fifths of the Board.

The Board may, by ordinance, promulgate reasonable regulations prescribing the qualifications of the bidders as to experience, adequacy of equipment, ability to complete performance within the time set, and other factors in addition to financial responsibility, and may, by ordinance, provide for suitable performance guaranties to qualify a bid. Copies of all regulations shall be made available to all bidders.

The District may determine in advance the minimum rental that should be produced by the public warehouse or public grain elevator offered and, if no qualified bid will produce the minimum rental, all bids may be rejected and the District shall then re-advertise for bids. If after the re-advertisement no responsible and satisfactory bid within the terms of the

advertisement is received, the District may then negotiate a lease for not less than the amount of minimum rental so determined. If, after negotiating for a lease as provided in this Section, it is found necessary to revise the minimum rental to be produced by the facilities offered for lease, then the District shall again re-advertise for bids, as provided in this Section, before negotiating a lease.

If the District shall temporarily operate any public warehouse or public grain elevator, the temporary operation shall not continue for more than one year without advertising for bids for the operation of the facility as provided in this Section.

Section 10. Compliance; prompt payment. Purchases made pursuant to this Act shall be made in compliance with the Local Government Prompt Payment Act.

Section 11. Acquisition of property. The District has power to acquire and accept by purchase, lease, gift, grant, or otherwise any property and rights useful for its purposes and to provide for the development of channels, ports, harbors, airports, airfields, terminals, port facilities and terminal facilities adequate to serve the needs of commerce within the District. The District may acquire real or personal property or any rights therein in the manner, as near as may be, as is provided for the exercise of the right of eminent domain under

the Eminent Domain Act; except that no rights or property of any kind or character now or hereafter owned, leased, controlled or operated and used by, or necessary for the actual operations of, any common carrier engaged in interstate commerce, or of any other public utility subject to the jurisdiction of the Illinois Commerce Commission, shall be taken or appropriated by the District without first obtaining the approval of the Illinois Commerce Commission and except that no property owned by any municipality or village within the District shall be taken or appropriated without first obtaining the consent of such municipality or village.

Also, the District may lease to others for any period of time, not to exceed 99 years, upon such terms as its Board may determine, any of its real property, rights of way or privileges, or any interest therein, or any part thereof, for industrial, manufacturing, commercial, or harbor purposes. In conjunction with such leases, the District may grant rights of way and privileges across the property of the District, which rights of way and privileges may be assignable and irrevocable during the term of any such lease and may include the right to enter upon the property of the District to do such things as may be necessary for the enjoyment of those leases, rights of way, and privileges, and those leases may contain such conditions and retain such interest therein as may be deemed for the best interest of the District by the Board.

Also, the District shall have the right to grant easements

and permits for the use of any real property, rights of way or privileges that, in the opinion of the Board, will not interfere with the use thereof by the District for its primary purposes and those easements and permits may contain such conditions and retain such interest therein as may be deemed for the best interest of the District by the Board.

With respect to any and all leases, easements, rights of way, privileges and permits made or granted by the Board, the Board may agree upon and collect the rentals, charges and fees that may be deemed for the best interest of the District. Except as provided in this Act for interim financing, the rentals, charges and fees shall be used to defray the reasonable expenses of the District and to pay the principal of and interest on any revenue bonds issued by the District.

Section 12. Eminent domain. Notwithstanding any other provision of this Act, any power granted under this Act to acquire property by condemnation or eminent domain is subject to, and shall be exercised in accordance with, the Eminent Domain Act.

Section 13. Grants and loans. The District has power to apply for and accept grants, loans, or appropriations from the federal government, the State of Illinois, Carroll County, Jo Daviess County, or any agency or instrumentality thereof to be used for any of the purposes of the District and to enter into

any agreements with the federal, State, and county governments in relation to such grants, loans or appropriations.

The District may petition any federal, State, municipal, or local authority, administrative, judicial and legislative, having jurisdiction in the premises, for the adoption and execution of any physical improvement, change in method or system of handling freight, warehousing, docking, lightering, and transfer of freight, which in the opinion of the District is designed to improve or better the handling of commerce in and through the Port District or improve terminal or transportation facilities therein.

Section 14. Insurance contracts. The District has power to procure and enter into contracts for any type of insurance or indemnity against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employers' liability, against any act of any member, officer, or employee of the District in the performance of the duties of his office or employment or any other insurable risk.

Section 15. Foreign trade zones and sub-zones. The District has power to acquire or to apply to the proper authorities of the United States of America under the appropriate law for the right to establish, operate, maintain, and lease foreign trade zones and sub-zones within the jurisdiction of the United

States Customs Service and to establish, operate, maintain, and lease the foreign trade zones and sub-zones.

Section 16. Authorization to borrow moneys. The District's Board may borrow money from any bank or other financial institution and may provide appropriate security for that borrowing, if the money is repaid within 3 years after the money is borrowed. "Financial institution" means any bank subject to the Illinois Banking Act, any savings and loan association subject to the Illinois Savings and Loan Act of 1985, any savings bank subject to the Savings Bank Act, and any federally chartered commercial bank or savings and loan association organized and operated in this State pursuant to the laws of the United States.

Section 17. Borrowing money; revenue bonds.

(a) The district has the continuing power to borrow money for the purpose of acquiring, constructing, reconstructing, extending, operating, or improving terminals, terminal facilities, intermodal facilities, and port facilities; for acquiring any property and equipment useful for the construction, reconstruction, extension, improvement, or operation of its terminals, terminal facilities, intermodal facilities, and port facilities; and for acquiring necessary cash working funds. For the purpose of evidencing the obligation of the District to repay any money borrowed, the

District may, by ordinances adopted by the Board from time to time, issue and dispose of its interest bearing revenue bonds, notes, or certificates and may also from time to time issue and dispose of its interest bearing revenue bonds, notes, or certificates to refund any bonds, notes, or certificates at maturity or by redemption provisions or at any time before maturity with the consent of the holders thereof.

(b) All bonds, notes, and certificates shall be payable solely from the revenues or income to be derived from the terminals, terminal facilities, intermodal facilities, and port facilities or any part thereof; may bear any date or dates; may mature at any time or times not exceeding 40 years from their respective dates; may bear interest at any rate or rates payable semiannually; may be in any form; may carry any registration privileges; may be executed in any manner; may be payable at any place or places; may be made subject to redemption in any manner and upon any terms, with or without premium that is stated on the face thereof; may be authenticated in any manner; and may contain any terms and covenants as may be provided in the ordinance. The holder or holders of any bonds, notes, certificates, or interest coupons appertaining to the bonds, notes, and certificates issued by the District may bring civil actions to compel the performance and observance by the District or any of its officers, agents, or employees of any contract or covenant made by the District with the holders of those bonds, notes, certificates, or

interest coupons and to compel the District and any of its officers, agents, or employees to perform any duties required to be performed for the benefit of the holders of any bonds, notes, certificates, or interest coupons by the provision in the ordinance authorizing their issuance, and to enjoin the District and any of its officers, agents, or employees from taking any action in conflict with any such contract or covenant, including the establishment of charges, fees, and rates for the use of facilities as provided in this Act. Notwithstanding the form and tenor of any bonds, notes, or certificates and in the absence of any express recital on the face thereof that it is nonnegotiable, all bonds, notes, and certificates shall be negotiable instruments. Pending the preparation and execution of any bonds, notes, or certificates, temporary bonds, notes, or certificates may be issued with or without interest coupons as may be provided by ordinance.

(c) The bonds, notes, or certificates shall be sold by the corporate authorities of the District in any manner that the corporate authorities shall determine, except that if issued to bear interest at the minimum rate permitted by the Bond Authorization Act, the bonds shall be sold for not less than par and accrued interest and except that the selling price of bonds bearing interest at a rate less than the maximum rate permitted in that Act shall be such that the interest cost to the District of the money received from the bond sale shall not exceed such maximum rate annually computed to absolute maturity

of said bonds or certificates according to standard tables of bond values.

(d) From and after the issue of any bonds, notes, or certificates as provided in this Section, it shall be the duty of the corporate authorities of the District to fix and establish rates, charges, and fees for the use of facilities acquired, constructed, reconstructed, extended, or improved with the proceeds derived from the sale of the bonds, notes, or certificates sufficient at all times with other revenues of the District, if any, to pay (i) the cost of maintaining, repairing, regulating, and operating the facilities and (ii) the bonds, notes, or certificates and interest thereon as they shall become due, all sinking fund requirements, and all other requirements provided by the ordinance authorizing the issuance of the bonds, notes, or certificates or as provided by any trust agreement executed to secure payment thereof. To secure the payment of any or all of bonds, notes, or certificates and for the purpose of setting forth the covenants and undertaking of the District in connection with the issuance of those bonds, notes, or certificates and the issuance of any additional bonds, notes, or certificates payable from revenue income to be derived from the terminals, terminal facilities, intermodal facilities, and port facilities the District may execute and deliver a trust agreement or agreements. A lien upon any physical property of the District may be created by the trust agreement. A remedy for any breach or default of the

terms of any trust agreement by the District may be by mandamus proceedings in the circuit court to compel performance and compliance with the agreement, but the trust agreement may prescribe by whom or on whose behalf the action may be instituted.

Section 18. Bonds not obligations of the State or District. Under no circumstances shall any bonds, notes, or certificates issued by the District or any other obligation of the District be or become an indebtedness or obligation of the State or of any other political subdivision of or municipality within the State, nor shall any bond, note, certificate, or obligation be or become an indebtedness of the District within the purview of any constitutional limitation or provision. It shall be plainly stated on the face of each bond, note, and certificate that it does not constitute an indebtedness or obligation but is payable solely from the revenues or income of the District.

Section 19. Revenue bonds as legal investments. The State and all counties, municipalities, villages, incorporated towns and other municipal corporations, political subdivisions, public bodies, and public officers of any thereof; all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business; all insurance companies, insurance associations, and

other persons carrying on an insurance business; and all executors, administrators, guardians, trustees, and their fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds, notes, or certificates issued under this Act. It is the purpose of this Section to authorize the investment in bonds, notes, or certificates of all sinking, insurance, retirement, compensation, pension, and trust funds, whether owned or controlled by private or public persons or officers; provided, however, that nothing contained in this Section may be construed as relieving any person from any duty of exercising reasonable care in selecting securities for purchase or investment.

Section 20. Permits. It shall be unlawful to make any fill or deposit of rock, earth, sand, or other material, or any refuse matter of any kind or description, or build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, bridge, or other structure over, under, in, or within 40 feet of any navigable waters within the District without first submitting the plans, profiles, and specifications for it, and any other data and information that may be required, to the District and receiving a permit. Any person, corporation, company, municipality, or other agency that does any of the things prohibited in this Section without securing a permit is guilty of a Class A misdemeanor. Any

structure, fill, or deposit erected or made in any of the public bodies of water within the District in violation of the provisions of this Section is declared to be a purpresture and may be abated as such at the expense of the person, corporation, company, city, municipality, or other agency responsible for it. If in the discretion of the District it is decided that the structure, fill, or deposit may remain, the District may fix any rule, regulation, requirement, restrictions, or rentals or require and compel any changes, modifications, and repairs that shall be necessary to protect the interest of the District.

Section 21. Board of Commissioners. The governing and administrative body of the Port District shall be a Board of Commissioners consisting of 5 members, to be known as the Upper Mississippi River International Port District Board. All members of the Board shall be residents of the District and shall be known as Commissioners of the Upper Mississippi River International Port District Board. The members of the Board may serve with compensation not to exceed \$6,000 per year and shall be reimbursed for actual expenses incurred by them in the performance of their duties. No Commissioner of the Board shall have any private financial interest, profit or benefit in any contract, work or business of the District nor in the sale or lease of any property to or from the District, except to the extent allowed under The Public Officer Prohibited Activities

Act.

Section 22. Appointment of Board. The Governor shall appoint one member of the Board and the County Board Chairs of Jo Daviess and Carroll Counties shall each appoint 2 members of the Board. Of the 4 members appointed by the County Board Chairs, no more than 2 shall be associated with the same political party. All initial appointments shall be made within 60 days after this Act takes effect. The one member appointed by the Governor shall be appointed for an initial term expiring June 1, 2012. Of the terms of the members initially appointed by the County Board Chairs, 2 shall expire June 1, 2011 and 2 shall expire June 1, 2012. At the expiration of the term of any member, his or her successor shall be appointed by the Governor or the County Board Chairs in like manner and with like regard to place of residence of the appointee, as in the case of appointments for the initial terms.

After the expiration of initial terms, each successor shall hold office for a term of 3 years from the first day of June of the year in which the term of office commences. In the case of a vacancy during the term of office of any member appointed by the Governor, the Governor shall make an appointment for the remainder of the term vacant and until a successor is appointed and qualified. In case of a vacancy during the term of office of any member appointed by a County Board Chair, the proper County Board Chair shall make an appointment for the remainder

of the term vacant and until a successor is appointed and qualified. The Governor and each County Board Chair shall certify their respective appointments to the Secretary of State. Within 30 days after certification of his or her appointment, and before entering upon the duties of his or her office, each member of the Board shall take and subscribe the constitutional oath of office and file it in the office of the Secretary of State.

Section 23. Removal of Board members; vacancies. Members of the Board shall hold office until their respective successors have been appointed and qualified. Any member may resign from his or her office to take effect when his or her successor has been appointed and has qualified. The Governor and each County Board Chair may remove any member of the Board they have appointed in case of incompetency, neglect of duty, or malfeasance in office. They shall give such member a copy of the charges against him or her and an opportunity to be publicly heard in person or by counsel in his or her own defense upon not less than 10 days' notice. In case of failure to qualify within the time required, or of abandonment of his or her office, or in case of death, conviction of a felony or removal from office, the office of such member shall become vacant. Each vacancy shall be filled for the unexpired term by appointment in like manner as in case of expiration of the term of a member of the Board.

Section 24. Organization of Board. As soon as possible after the appointment of the initial members, the Board shall organize for the transaction of business, select a chairperson and a temporary secretary from its own number, and adopt bylaws and regulations to govern its proceedings. The initial chairperson and successors shall be elected by the Board from time to time for a term of office as provided in the District bylaws. However, such term of office shall not exceed his or her term of office as a member of the Board.

Section 25. Board meetings. Regular meetings of the Board shall be held at least once in each calendar month, the time and place of such meetings to be fixed by the Board. Three members of the Board shall constitute a quorum for the transaction of business. All action of the Board shall be by ordinance or resolution and the affirmative vote of at least 3 members shall be necessary for the adoption of any ordinance or resolution. All such ordinances and resolutions before taking effect shall be approved by the chair of the Board, and if the chair approves, the chair shall sign the same, and if the chair does not approve the chair shall return to the Board with his or her objections in writing at the next regular meeting of the Board occurring after passage. But in the case the chair fails to return any ordinance or resolution with the objections within the prescribed time, he or she shall be deemed to have

approved the ordinance or resolution and it shall take effect accordingly. Upon the return of any ordinance or resolution by the chair with objections, the vote shall be reconsidered by the Board, and if, upon such reconsideration of the ordinance or resolution, it is passed by the affirmative vote of at least 4 members, it shall go into effect notwithstanding the veto of the chair. All ordinances, resolutions and all proceedings of the District and all documents and records in its possession shall be public records, and open to public inspection, except such documents and records as are kept or prepared by the Board for use in negotiations, legal actions or proceedings to which the District is a party.

Section 26. Secretary and treasurer. The Board shall appoint a secretary and a treasurer, who need not be members of the Board, to hold office during the pleasure of the Board, and fix their duties and compensation. The secretary and treasurer shall be residents of the District. Before entering upon the duties of their respective offices they shall take and subscribe the constitutional oath of office, and the treasurer shall execute a bond with corporate sureties to be approved by the Board. The bond shall be payable to the District in whatever penal sum may be directed by the Board conditioned upon the faithful performance of the duties of the office and the payment of all money received by him or her according to law and the orders of the Board. The Board may, at any time,

require a new bond from the treasurer in such penal sum as may then be determined by the Board. The obligation of the sureties shall not extend to any loss sustained by the insolvency, failure or closing of any savings and loan association or federal or State bank wherein the treasurer has deposited funds if the bank or savings and loan association has been approved by the Board as a depository for these funds. The oaths of office and the treasurer's bond shall be filed in the principal office of the District.

Section 27. Deposits. All funds deposited by the treasurer in any bank or savings and loan association shall be placed in the name of the District and shall be withdrawn or paid out only by check or draft upon the bank or savings and loan association, signed by the treasurer and countersigned by the chair of the Board. Subject to prior approval of such designations by a majority of the Board, the chair may designate any other Board member or any officer of the District to affix the signature of the chair and the treasurer may designate any other officer of the District to affix the signature of the treasurer to any check or draft for payment of salaries or wages and for payment of any other obligation of not more than \$2,500.00.

No bank or savings and loan association shall receive public funds as permitted by this Section, unless it has complied with the requirements established pursuant to Section

6 of The Public Funds Investment Act.

Section 28. Valid; checks and drafts. In case any officer whose signature appears upon any check or draft issued pursuant to this Act, ceases to hold his or her office before the delivery thereof to the payee, his or her signature nevertheless shall be valid and sufficient for all purposes with the same effect as if he had remained in office until delivery thereof.

Section 29. Executive director. The Board may appoint an Executive Director who shall be a person of recognized ability and business experience to hold office during the pleasure of the Board. The Executive Director shall have management of the properties and business of the District and the employees thereof subject to the general control of the Board, shall direct the enforcement of all ordinances, resolutions, rules and regulations of the Board, and shall perform such other duties as may be prescribed from time to time by the Board. The Board may appoint a general attorney, a chief engineer, and a general manager to assist the Executive Director, and shall provide for the appointment of other officers, and the employment of additional attorneys, engineers, consultants, agents and employees as may be necessary. It shall define their duties and may require bonds of such of them as the Board may designate. The Executive Director, General Manager, General

Attorney, Chief Engineer, and all other officers provided for pursuant to this Section shall be exempt from taking and subscribing any oath of office and shall not be members of the Board. The compensation of the Executive Director, General Manager, General Attorney, Chief Engineer, and all other officers, attorneys, consultants, agents and employees shall be fixed by the Board.

Section 30. Ordinances. The Board has power to pass all ordinances and make all rules and regulations proper or necessary, and to carry into effect the powers granted to the District, with such fines or penalties as may be deemed proper. All fines and penalties shall be imposed by ordinances, which shall be published in a newspaper of general circulation published in the area embraced by the District. No such ordinance shall take effect until 10 days after its publication.

Section 31. Financial statement. Within 60 days after the end of each fiscal year, the Board shall prepare and print a complete and detailed report and financial statement of the operations and assets and liabilities of the Port District. A reasonably sufficient number of copies of such report shall be printed for distribution to persons interested, upon request, and a copy shall be filed with the Governor and the County Clerk and the County Board Chair of Jo Daviess and Carroll

Counties.

Section 32. Investigations by the Board. The Board may investigate conditions in which it has an interest within the area of the District; the enforcement of its ordinances, rules, and regulations; and the action, conduct, and efficiency of all officers, agents, and employees of the District. In the conduct of investigations the Board may hold public hearings on its own motion and shall do so on complaint of any municipality within the District. Each member of the Board shall have power to administer oaths and the secretary, by order of the Board, shall issue subpoenas to secure the attendance and testimony of witnesses and the production of books and papers relevant to investigations and to any hearing before the Board or any member of the Board.

Any circuit court of this State, upon application of the Board or any member of the Board, may in its discretion compel the attendance of witnesses, the production of books and papers, and giving of testimony before the Board, before any member of the Board, or before any officers' committee appointed by the Board by attachment for contempt or otherwise in the same manner as the production of evidence may be compelled before the court.

Section 33. Final review of administrative decisions. All final administrative decisions of the Board hereunder shall be

subject to judicial review pursuant to the provisions of the Administrative Review Law, and all amendments and modifications thereof, and the rules adopted pursuant thereto. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

Section 34. Non-applicability. The provisions of this Act shall not be considered as impairing, altering, modifying, repealing or superseding any of the jurisdiction or powers of the Illinois Commerce Commission or of the Department of Natural Resources under the Rivers, Lakes, and Streams Act. Nothing in this Act or done under its authority shall apply to, restrict, limit or interfere with the use of any terminal facility or port facility owned or operated by any private person for the storage or handling or transfer of any commodity moving in interstate commerce or the use of the land and facilities of a common carrier or other public utility and the space above such land and facilities in the business of such common carrier or other public utility, without approval of the Illinois Commerce Commission and without the payment of just compensation to any such common carrier or other public utility for damages resulting from any such restriction, limitation or interference.

Section 35. Annexation. Territory that is contiguous to the District and that is not included within any other port

district may be annexed to and become a part of the District in the manner provided in Section 36 or 37, whichever is applicable.

Section 36. Petition for annexation. At least 5% of the legal voters residing within the limits of the proposed addition to the District shall petition the circuit court for a county in which a major part of the District is situated, to cause the question of whether the proposed additional territory shall become a part of the District to be submitted to the legal voters of the proposed additional territory. The petition shall be addressed to the court and shall contain a definite description of the boundaries of the territory to be embraced in the proposed addition.

Upon the filing of any petition with the clerk of the court, the court shall fix a time and place for a hearing upon the subject of the petition.

Notice shall be given by the court to whom the petition is addressed or by the circuit court clerk or sheriff of the county in which the petition is made at the order and direction of the court of the time and place of the hearing upon the subject of the petition at least 20 days before the hearing by at least one publication of the notice in any newspaper having general circulation within the area proposed to be annexed, and by mailing a copy of the notice to the mayor or president of the board of trustees of all cities, villages, and incorporated

towns within the District.

At the hearing, the District, all persons residing or owning property within the District, and all persons residing in or owning property situated in the area proposed to be annexed to the District may appear and be heard touching upon the sufficiency of the petition. If the court finds that the petition does not comply with the requirements of the law, the court shall dismiss the petition. If the court finds that the petition is sufficient, the court shall certify the petition and the proposition to the proper election officials who shall submit the proposition to the voters at an election under the general election law. In addition to the requirements of the general election law, the notice of the referendum shall include a description of the area proposed to be annexed to the District. The proposition shall be in substantially the following form:

Shall (description of the territory proposed to be annexed) join the Upper Mississippi River International Port District?

The votes shall be recorded as "Yes" or "No".

The court shall cause a statement of the result of the referendum to be filed in the records of the court.

If a majority of the votes cast upon the question of annexation to the District are in favor of becoming a part of the District, the court shall then enter an order stating that the additional territory shall thenceforth be an integral part

of the Upper Mississippi River International Port District and subject to all of the benefits of service and responsibilities of the District. The circuit clerk shall transmit a certified copy of the order to the circuit clerk of any other county in which any of the territory affected is situated.

Section 37. Annexation of territory having no legal voters. If there is territory contiguous to the District that has no legal voters residing within it, a petition to annex the territory signed by all the owners of record of the territory may be filed with the circuit court for the county in which a major part of the District is situated. A time and place for a hearing on the subject of the petition shall be fixed and notice of the hearing shall be given in the manner provided in Section 36. At the hearing any owner of land in the territory proposed to be annexed, the District, and any resident of the District may appear and be heard touching on the sufficiency of the petition. If the court finds that the petition satisfies the requirements of this Section, it shall enter an order stating that thenceforth the territory shall be an integral part of the Upper Mississippi River International Port District and subject to all of the benefits of service and responsibilities of the District. The circuit clerk shall transmit a certified copy of the order of the court to the circuit clerk of any other county in which the annexed territory is situated.

Section 38. Disconnection. The registered voters of a county included in the District may petition the State Board of Elections requesting the submission of the question of whether the county should be disconnected from the District to the electors of the county. The petition shall be circulated in the manner required by Section 28-3 of the Election Code and objections thereto and the manner of their disposition shall be in accordance with Section 28-4 of the Election Code. If a petition is filed with the State Board of Elections, signed by not less than 5% of the registered voters of the county or that portion of the county that is within the District, requesting that the question of disconnection be submitted to the electors of the county, the State Board of Elections must certify the question to the proper election authority, which must submit the question at a regular election held at least 78 days after the petition is filed in accordance with the Election Code.

The question must be submitted in substantially the following form:

Shall (name of county) be disconnected from the
Upper Mississippi River International Port District?

The votes must be recorded as "Yes" or "No". If a majority of the electors voting on the question vote in the affirmative, the county or portion of the county that is within the District shall be disconnected from the District.

Section 39. Severability. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity of that provision or application does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application.

Section 40. Interference with private facilities. The provisions of this Act shall not be considered as impairing, altering, modifying, repealing, or superseding any of the jurisdiction or powers of the Illinois Commerce Commission or of the Department of Natural Resources under the Rivers, Lakes, and Streams Act. Nothing in this Act or done under its authority shall apply to, restrict, limit, or interfere with the use of any terminal, terminal facility, intermodal facility, or port facility owned or operated by any private person for the storage or handling or transfer of any commodity moving in interstate commerce or the use of the land and facilities of a common carrier or other public utility and the space above that land and those facilities or the right to use that land and those facilities in the business of any common carrier or other public utility, without approval of the Illinois Commerce Commission and without the payment of just compensation to any common carrier or other public utility for damages resulting from any restriction, limitation, or interference.

Section 41. Non-applicability of conflicting provisions of the Illinois Municipal Code. The provisions of the Illinois Municipal Code shall not be effective within the area of the District insofar as the provisions of that Act conflict with the provisions of this Act or grant substantially the same powers to any municipal corporation that are granted to the District by this Act.

Section 42. Authority to create and operate a utility district. The Upper Mississippi River International Port District shall have the authority to create and operate a utility district within the boundaries of the District providing that municipal utilities or annexation into a municipality utility district is not possible. The Port District shall have all responsibility and authority to provide and maintain water, sewer, gas lines, surface water drainage, roads, and rail infrastructures. The Port District shall also have the responsibility and authority to provide private utilities including electrical power, steam power, natural gas, telecommunications and data networking systems.

The Port District may, after referendum approval, levy a tax for the purpose of financing and maintaining utility and infrastructure costs of the District annually at the rate approved by referendum. This tax shall not exceed 0.05% of the value of all taxable property within the Port District as equalized or assessed by the Department of Revenue.

The tax may not be levied until the question of levying the tax has been submitted to the electors of the Port District at a regular election and approved by the majority of the electors voting on the question. The board must certify the question to the proper election authority, which must submit the question at an election in accordance with the Election Code.

The election authority must submit the question in substantially the following form:

Shall the Upper Mississippi River International Port District be authorized to levy a tax at a rate not to exceed 0.05% of the value of all taxable property within the Port District as equalized or assessed by the Department of Revenue for the purpose of financing and maintaining utility and infrastructure costs of the District?

The election authority must record the votes as "Yes" or "No". If a majority of the electors voting on the question vote in the affirmative, the Port District may levy the tax.

Section 999. Effective date. This Act takes effect upon becoming law.