

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1346

103RD GENERAL ASSEMBLY

2838S.05C

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 68.010, 68.015, 68.025, 68.035, 68.040, 68.045, 68.055, 68.057, 68.060, 68.075, 68.080, 68.205, and 68.259, RSMo, and to enact in lieu thereof fifteen new sections relating to water resources.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 68.010, 68.015, 68.025, 68.035,
2 68.040, 68.045, 68.055, 68.057, 68.060, 68.075, 68.080, 68.205,
3 and 68.259, RSMo, are repealed and fifteen new sections enacted
4 in lieu thereof, to be known as sections 68.010, 68.015, 68.025,
5 68.035, 68.040, 68.045, 68.055, 68.057, 68.060, 68.075, 68.080,
6 68.085, 68.205, 68.253, and 640.406, to read as follows:

68.010. 1. Every city or county which is situated
2 upon, or adjacent to, or which embraces within its
3 boundaries a navigable waterway, is hereby authorized to
4 form a local port authority, and upon approval of the
5 highways and transportation commission of the state of
6 Missouri, the port authority shall be a political
7 subdivision of this state. In every constitutional charter
8 city not within a county, a local "Port Authority" is
9 created by sections 68.010, 68.015, 68.025, 68.040, 68.045,
10 68.060 and 68.070 and shall become a political subdivision
11 of this state September 28, 1975.

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 2. The highways and transportation commission of the
13 state of Missouri is hereby authorized to accept
14 applications, conduct hearings, and approve or disapprove
15 applications for approval of local or regional port
16 authorities as political subdivisions of this state, as
17 provided herein, but in determining the approval or
18 disapproval of such applications, the highways and
19 transportation commission shall consider the following
20 criteria:

21 (1) The population of any city and/or county
22 submitting the application;

23 (2) The desirability and economic feasibility of
24 having more than a single port authority within the same
25 geographic area;

26 (3) The technical and economic capability of
27 participating cities and/or counties, as well as private
28 interests, to plan and carry out port development within the
29 proposed district;

30 (4) The amount of actual and potential river traffic
31 that would make use of any facilities developed by a port
32 authority;

33 (5) The potential economic impact on the immediate
34 area from which the application originates; and

35 (6) The potential impact on the economic development
36 of the entire state and how the proposed port authority's
37 developmental activities relate to any state plans.

38 Provided, however, any such application shall be granted if
39 it is made by a city or county of at least three hundred
40 thousand population, having a common boundary with the state
41 of Kansas, or by a group of cities or counties at least one
42 of which meets the aforesaid criteria, and if no proposed

43 boundary of the port authority described in such application
44 overlaps the boundary of any then existing port authority.

45 3. No city shall create a port authority under
46 sections 68.010, 68.015, 68.025, 68.040, 68.045, 68.060 and
47 68.070 if said city is located within a county that has,
48 **prior to the creation of such port authority by such city,**
49 created a port authority which has received approval as a
50 political subdivision of this state under sections 68.010,
51 68.015, 68.025, 68.040, 68.045, 68.060 and 68.070.

68.015. 1. **(1)** The legislative body, or county
2 commission, of each county or city creating a port authority
3 or any port authority created within said city pursuant to
4 section 68.010 hereof shall designate what areas within such
5 county or city shall comprise one or more port districts,
6 subject to the limitation that any area designated as within
7 a port district shall be or could be reasonably connected to
8 the business of a port. The boundaries of any port district
9 shall be filed with the clerk of the county commission, city
10 clerk, or clerk of the legislative or governing body of the
11 county as applicable and shall become effective upon
12 approval of the transportation commission. The legislative
13 body or county commission may from time to time enlarge or
14 reduce the area comprising any port district. Any change of
15 boundaries shall be submitted for approval to the highways
16 and transportation commission and upon approval shall be
17 filed with the appropriate clerk and thereupon become
18 effective.

19 **(2) If a port authority created and approved as a**
20 **political subdivision as provided in section 68.010**
21 **purchases or leases real property located within adjoining**
22 **municipalities or states, as applicable, such real property**
23 **shall be deemed included within the port district and the**

24 port authority shall be empowered to exercise its powers
25 under section 68.025 with respect to such real property, and
26 any personal property located thereon, to the extent not
27 otherwise precluded by applicable law, and to the extent
28 such property is located within a city or county that is
29 situated upon, or adjacent to, or embraces within its
30 boundaries a navigable waterway.

31 (3) Notwithstanding any provision of subdivision (2)
32 of this subsection to the contrary, no port authority shall
33 be empowered to exercise its powers under section 68.025
34 with respect to property located within the boundaries of
35 another local or regional port authority approved as a
36 political subdivision of the state. This subdivision shall
37 not apply to any property located within a city not within a
38 county and owned or leased by a port authority established
39 by a county with more than one million inhabitants.

40 2. The legislative body or county commission of any
41 county or city authorized to create a local port authority
42 may appropriate, allocate and expend such funds of the
43 county or city for the planning and development of a port
44 district as are reasonable and necessary to carry out the
45 provisions of this chapter.

68.025. 1. Every local and regional port authority,
2 approved as a political subdivision of the state, shall have
3 the following powers to:

4 (1) Confer with any similar body created under laws of
5 this or any other state for the purpose of adopting a
6 comprehensive plan for the future development and
7 improvement of its port districts;

8 (2) Consider and adopt detailed and comprehensive
9 plans for future development and improvement of its port

10 districts and to coordinate such plans with regional and
11 state programs;

12 (3) Establish a port improvement district in
13 accordance with this chapter;

14 (4) Carry out any of the projects enumerated in
15 subdivision (17) of section 68.205;

16 (5) Within the boundaries of any established port
17 improvement district, to levy either a sales and use tax or
18 a real property tax, or both, for the purposes of paying any
19 part of the cost of a project benefitting property in a port
20 improvement district; except that no port improvement
21 district real property tax may be levied on any property,
22 real or personal, which is assessed pursuant to sections
23 151.010 to 151.340, unless such real property tax levy is
24 agreed to in writing by the property's owner;

25 (6) Pledge both revenues generated by any port
26 improvement district and any other port authority revenue
27 source to the repayment of any outstanding obligations;

28 (7) Either jointly with a similar body, or separately,
29 recommend to the proper departments of the government of the
30 United States, or any state or subdivision thereof, or to
31 any other body, the carrying out of any public improvement
32 for the benefit of its port districts;

33 (8) Provide for membership in any official,
34 industrial, commercial, or trade association, or any other
35 organization concerned with such purposes, for receptions of
36 officials or others as may contribute to the advancement of
37 its port districts and any industrial development therein,
38 and for such other public relations activities as will
39 promote the same, and such activities shall be considered a
40 public purpose;

41 (9) Represent its port districts before all federal,
42 state and local agencies;

43 (10) Cooperate with other public **or private** agencies
44 **[and with], individuals, partnerships, corporations,**
45 industry, business, and labor in port district improvement
46 matters;

47 (11) Enter into any agreement with any other states,
48 agencies, authorities, commissions, municipalities, persons,
49 corporations, or the United States, to effect any of the
50 provisions contained in this chapter;

51 (12) Approve the construction of all wharves, piers,
52 bulkheads, jetties, or other structures;

53 (13) Prevent or remove, or cause to be removed,
54 obstructions in harbor areas, including the removal of
55 wrecks, wharves, piers, bulkheads, derelicts, jetties or
56 other structures endangering the health and general welfare
57 of the port districts; in case of the sinking of a facility
58 from any cause, such facility or vessel shall be removed
59 from the harbor at the expense of its owner or agent so that
60 it shall not obstruct the harbor;

61 (14) Recommend the relocation, change, or removal of
62 dock lines and shore or harbor lines;

63 (15) Acquire, own, construct, redevelop, lease,
64 maintain, and conduct land reclamation and resource
65 recovery, including the removal of sand, rock, or gravel,
66 residential developments, commercial developments, mixed-use
67 developments, recreational facilities, industrial parks,
68 industrial facilities, and terminals, terminal facilities,
69 warehouses and any other type port facility;

70 (16) Acquire, own, lease, sell, **mortgage, encumber,** or
71 otherwise dispose of interest in and to real property and
72 improvements situate thereon and in personal property

73 necessary to fulfill the purposes of the port authority
74 **including, but not limited to, property in adjoining**
75 **municipalities and states;**

76 (17) Acquire rights-of-way and property of any kind or
77 nature within its port districts necessary for its
78 purposes. Every port authority shall have the right and
79 power to acquire the same by purchase, negotiation, or by
80 condemnation, and should it elect to exercise the right of
81 eminent domain, condemnation proceedings shall be maintained
82 by and in the name of the port authority, and it may proceed
83 in the manner provided by the laws of this state for any
84 county or municipality. The power of eminent domain shall
85 not apply to property actively being used in relation to or
86 in conjunction with river trade or commerce, unless such use
87 is by a port authority pursuant to a lease in which event
88 the power of eminent domain shall apply;

89 (18) Contract and be contracted with, and to sue and
90 be sued;

91 (19) Accept gifts, grants, loans or contributions from
92 the United States of America, the state of Missouri,
93 political subdivisions, municipalities, foundations, other
94 public or private agencies, [individual, partnership]
95 **individuals, partnerships,** or corporations;

96 (20) Employ such managerial, engineering, legal,
97 technical, clerical, accounting, advertising, stenographic,
98 and other assistance as it may deem advisable. The port
99 authority may also contract with independent contractors for
100 any of the foregoing assistance;

101 (21) Improve navigable and nonnavigable areas as
102 regulated by federal statute;

103 (22) Disburse funds for its lawful activities and fix
104 salaries and wages of its employees; [and]

105 (23) Adopt, alter or repeal its own bylaws, rules and
106 regulations governing the manner in which its business may
107 be transacted; however, said bylaws, rules and regulations
108 shall not exceed the powers granted to the port authority by
109 this chapter;

110 (24) Create and operate such agencies and departments
111 as may be deemed necessary or useful for the furtherance of
112 the port authority's purpose;

113 (25) Perform such other acts and things necessary or
114 useful in the exercise of powers enumerated in this section;

115 (26) Establish port rangers as follows:

116 (a) A port authority may appoint and commission such
117 port rangers as the port authority deems advisable to assist
118 the municipal police force in maintaining order and
119 preserving the peace within the boundaries of any real
120 property owned or leased by the port authority within the
121 state and on public streets within the boundaries of or
122 abutting any real property owned or leased by the port
123 authority within the state;

124 (b) Such port rangers shall have satisfactorily
125 completed a training course as prescribed by chapter 590 for
126 peace officers within the state or shall otherwise comply
127 with the requirements of chapter 590 for certification
128 within the time periods specified in such chapter;

129 (c) Each port ranger shall take and subscribe an oath
130 of office to perform the duties of such office faithfully
131 and impartially and shall be given a certificate of
132 commission as a port ranger granting such port ranger the
133 power to carry a firearm, maintain order, preserve the
134 peace, issue citations, and make arrests for violations of
135 state statutes and municipal ordinances within the port
136 ranger's jurisdiction. The municipal police force shall at

137 all times maintain primary jurisdiction and no provision of
138 this subdivision shall be construed as depriving,
139 curtailing, restricting, or otherwise impairing such
140 municipal police force in the performance of such police
141 force's duties;

142 (27) (a) Exercise the powers and duties under the
143 provisions of sections 99.010 to 99.230, sections 99.300 to
144 99.660, sections 100.300 to 100.620, and chapter 353. If
145 the governing bodies established in sections 99.010 to
146 99.230, sections 99.300 to 99.660, sections 100.300 to
147 100.620, and chapter 353 have previously considered and
148 voted to disapprove such housing project, land clearance
149 project, industrial development or redevelopment project, as
150 such terms are defined in sections 99.010 to 99.230,
151 sections 99.300 to 99.660, sections 100.300 to 100.620, and
152 chapter 353, as applicable, the local or regional port
153 authority shall not be empowered to undertake any housing
154 project, land clearance project, industrial development or
155 redevelopment project under such provisions;

156 (b) Notwithstanding any provision of sections 99.010
157 to 99.230, sections 99.300 to 99.660, sections 100.300 to
158 100.620, and chapter 353 to the contrary, except as
159 otherwise provided in paragraphs (a) and (c) of this
160 subdivision, in exercising such powers and duties, the board
161 of port authority commissioners shall be empowered to act in
162 lieu of the governing bodies established by sections 99.010
163 to 99.230, sections 99.300 to 99.660, sections 100.300 to
164 100.620, and chapter 353;

165 (c) This subdivision shall not be construed as
166 delegating to any port authority the power or authority to
167 take any action expressly reserved to the governing body of
168 the municipality; and

169 **(28) Contract with any other port authority for the**
170 **purpose of providing administrative support and exercising,**
171 **on such other port authority's behalf and in such other port**
172 **authority's name, the powers delegated to port authorities**
173 **by this chapter.**

174 2. In implementing its powers, the port authority
175 shall have the power to enter into agreements with private
176 operators or public entities for the joint development,
177 redevelopment, and reclamation of property within a port
178 district or for other uses to fulfill the purposes of the
179 port authority.

 68.035. 1. The state may make grants to a state port
2 fund, as appropriated by the general assembly, to be
3 allocated by the department of transportation to local port
4 authorities or regional port coordinating agencies. These
5 grants, administered on a nonmatching basis, [could] **may** be
6 used for managerial, engineering, legal, research,
7 promotion, planning, and any other expenses **but shall**
8 **exclude the funding of any housing project undertaken under**
9 **the provisions of sections 99.010 to 99.230.**

10 2. In addition the state may make capital improvement
11 matching grants contributing eighty percent of the funds and
12 local port authorities contributing twenty percent of the
13 funds for specific undertakings of port development such as
14 land acquisitions, construction, terminal facility
15 development, port improvement projects, and other related
16 port facilities. Notwithstanding the foregoing, any
17 matching grants awarded by the Missouri highways and
18 transportation commission under the Port Capital Improvement
19 Program shall be transportation related **and shall not be**
20 **used for purposes of funding any housing project undertaken**
21 **under the provisions of sections 99.010 to 99.230.**

22 3. The grants provided herein may be used as the local
23 share in applying for other grant programs.

24 4. (1) If the general assembly includes within any
25 appropriation bill a designation of moneys for a project to
26 be undertaken by a port authority, the department or office
27 of the state to whom the appropriation is made shall be
28 empowered to advance the designated moneys to the port
29 authority in the fiscal year for which the appropriation was
30 made and in lieu of providing such moneys on a reimbursement
31 basis. Such advancement shall be subject to such form of
32 agreement as the department or office of the state requires
33 for purposes of ensuring that the port authority is
34 obligated to expend the designated moneys for their intended
35 purpose and none other. Such agreement shall further
36 obligate the port authority to the repayment of such
37 designated moneys in the event the port authority fails to
38 abide by the requirements of such agreement.

39 (2) In lieu of the provisions of subdivision (1) of
40 this section, the department or office of the state to whom
41 the appropriation is made shall be empowered to deposit the
42 designated moneys with a financial institution or escrow
43 agent acceptable to the department or office, to be held and
44 disbursed under such form and subject to the terms of such
45 agreement as the department or office shall require for
46 purposes of ensuring that the designated moneys are expended
47 for their intended purpose and none other. Any designated
48 moneys advanced to the port authority or deposited with a
49 financial institution or escrow agent and not expended or
50 contractually obligated within five years from the date of
51 their advance or deposit shall escheat to the state unless
52 otherwise reappropriated by the general assembly.

68.040. 1. Every local and regional port authority,
2 approved as a political subdivision of the state, may from
3 time to time issue its negotiable revenue bonds or notes in
4 such principal amounts as, in its opinion, shall be
5 necessary to provide sufficient funds for achieving its
6 purposes, including the construction of port facilities and
7 the financing of port improvement projects; establish
8 reserves to secure such bonds and notes; and make other
9 expenditures, incident and necessary to carry out its
10 purposes and powers.

11 2. (1) This state shall not be liable on any notes or
12 bonds of any port authority.

13 (2) Any such notes or bonds shall not be a debt of the
14 state and shall contain on the faces thereof a statement to
15 such effect.

16 (3) **The failure to include such statement on the faces**
17 **of such notes or bonds shall neither invalidate the notes or**
18 **bonds nor render the state liable on such notes or bonds.**

19 3. No commissioner of any port authority or any
20 authorized person executing port authority notes or bonds
21 shall be liable personally on said notes or bonds or shall
22 be subject to any personal liability or accountability by
23 reason of the issuance thereof.

24 4. The notes and bonds of every port authority are
25 securities in which all public officers and bodies of this
26 state and all political subdivisions and municipalities, all
27 insurance companies and associations, and other persons
28 carrying on an insurance business, all banks, trust
29 companies, saving associations, savings and loan
30 associations, credit unions, investment companies, all
31 administrators, guardians, executors, trustees, and other
32 fiduciaries, and all other persons whatsoever, who now or

33 may hereafter be authorized to invest in notes and bonds or
34 other obligations of this state, may properly and legally
35 invest funds, including capital, in their control or
36 belonging to them.

37 5. No port authority shall be required to pay any
38 taxes or any assessments whatsoever to this state or to any
39 political subdivisions, municipality, or other governmental
40 agency of this state. The notes and bonds of every port
41 authority and the income therefrom shall, at all times, be
42 exempt from any taxes and any assessments, except for death
43 and gift taxes and taxes on transfers. Additionally, the
44 leases of both real and personal property by or to any port
45 authority involving the issuance of bonds authorized under
46 this chapter shall be exempt from taxation. A port
47 authority issuing bonds under this chapter for incentivized
48 development shall require the developer of any project which
49 is to be leased to such developer, or any other party, to
50 confer with the affected taxing authorities, and
51 subsequently contractually require the payment of such sums
52 as they may agree upon, or the port authority may elect to
53 require such sums to be allocated among such taxing
54 authorities on the same pro rata basis as are ad valorem
55 property tax revenues.

56 6. Every port authority shall have the powers and be
57 governed by the procedures now or hereafter conferred upon
58 or applicable to the environmental improvement authority,
59 chapter 260, relating to the manner of issuance of revenue
60 bonds and notes, and the port authority shall exercise all
61 such powers and adhere to all such procedures insofar as
62 they are consistent with the necessary and proper
63 undertaking of its purposes.

68.045. 1. Every local port authority shall be
2 administered by a board of port authority commissioners
3 which shall consist of at least seven members; provided,
4 however, that the number of members of one political party
5 shall not exceed the number of members of the other party by
6 more than one.

7 2. Newly created port authorities as well as those
8 presently constituted shall structure the terms of those
9 commissioners so that no more than three members' terms
10 shall expire in any one year. **Each member shall continue to**
11 **serve until a successor has been appointed as provided in**
12 **this section.**

13 3. In the event the county or city creating the port
14 authority operates under a charter form of government, the
15 method of appointment and the qualifications, salaries,
16 powers, and duties of the appointees shall be as provided by
17 such charter. In all other cases, or if the charter is
18 silent as to such matters, the legislative body or county
19 commission of the county or city creating the port authority
20 or, in the case of a port authority created in this act in a
21 constitutional charter city not within a county, the
22 legislative body of that constitutional charter city shall
23 determine the method of appointment, and subject to the
24 limitations expressed in [the first sentence] **subsection 1**
25 of this section, shall determine their qualifications,
26 salaries, powers and duties consistent with the provisions
27 of this chapter. **If the legislative body or county**
28 **commission, as applicable, fails to determine such**
29 **qualifications, salaries, powers, and duties prior to**
30 **appointment, the board of port authority commissioners may**
31 **elect to do so under the port authority's bylaws, consistent**
32 **with the provisions of this chapter.**

33 4. A member of a board of port authority commissioners
34 shall be removed from office in such manner as is provided
35 for the appointment of members as provided in subsections 2
36 and 3 of this section for malfeasance, willful neglect of
37 duty, or other cause after notice and public hearing, unless
38 such member expressly waives such notice or hearing in
39 writing. Removal for any other reason and the process to be
40 undertaken in effecting such removal shall be reserved to
41 the board of port authority commissioners and exercised as
42 prescribed by the bylaws.

43 5. The legislative body or county commission shall
44 also provide for the filing of annual reports by the board
45 of port authority commissioners and for periodic independent
46 audits of the accounts of the port authority.

68.055. 1. Every port authority shall let contracts
2 for all work to be done and for equipment, supplies or
3 materials to be purchased. Excepting as otherwise provided
4 herein, such contracts shall be given to the [lowest
5 responsible bidder therefor, upon not less than twenty days'
6 notice of the letting, given by publication in a newspaper
7 of general circulation in the city or county creating the
8 port authority; and in the discretion of the commissioners,
9 in one or more newspapers of general circulation among
10 contractors. The port authority shall have the power and
11 authority to reject any and all bids and to readvertise the
12 work or proposed purchase] bidder or proposer whose bid or
13 proposal, when evaluated alongside factors such as ability
14 to perform, timeliness, character and reputation, quality of
15 past performance, compliance with applicable laws, quality
16 and availability, and ability to provide future maintenance
17 and services where applicable, is determined to be lowest
18 and best.

19 2. (1) Every port authority shall be authorized to
20 use such additional procurement methods authorized by any
21 provision of state law with respect to political
22 subdivisions or not otherwise precluded by any provision of
23 state law with respect to political subdivisions, provided
24 such nonprecluded methods are structured and implemented in
25 a manner as to ensure an open, transparent, competitive, and
26 fair process.

27 (2) Notwithstanding the provisions of subdivision (1)
28 of this subsection to the contrary, nothing in this section
29 shall be construed to authorize a port authority to use
30 anything other than a qualifications-based procurement
31 method with respect to professional architecture or
32 engineering services in connection with the design,
33 construction, alteration, addition, remodeling, or
34 improvement of any public facility.

35 3. Notwithstanding the provisions of subsection 1 of
36 this section, every port authority may let contracts in a
37 manner consistent with the procedures set forth in 24 CFR
38 Section 85.36, "Uniform Administrative Requirements for
39 Grants and Cooperative Agreements to State and Local
40 Government", as may be revised from time to time, regardless
41 of the source of funds for the procurement, except that if a
42 funding source mandates specific procedures for letting
43 contracts as a condition to receipt of funds which are
44 inconsistent with the procedures authorized in this section
45 for letting contracts, a port authority may use such
46 procedures required by the funding source.

47 [3.] 4. Notwithstanding the provisions of subsection
48 [2] 3 of this section, the dollar limit of procurements
49 which may, pursuant to subsection [2] 3 of this section, be
50 accomplished using "small purchase procedures", shall, for

51 the purposes of procurements to be paid for with funds other
52 than federal funds, adjust annually based on the rate of
53 inflation according to the Consumer Price Index, commencing
54 in 1995.

68.057. 1. Any expenditure made by a port authority[,
2 as defined in section 68.205,] that is over [twenty-five]
3 **seventy-five** thousand dollars, including professional
4 service contracts, shall be competitively [bid] **procured.**
5 **Contracts shall be awarded upon not less than twenty days'**
6 **notice of the letting, given by publication in a newspaper**
7 **of general circulation in the city or county creating the**
8 **port authority and, in the discretion of the commissioners,**
9 **in one or more newspapers of general circulation among**
10 **contractors. In the event no newspaper of general**
11 **circulation exists in the city or county creating the port**
12 **authority, the notice required in this subsection shall be**
13 **given by publication in a newspaper of general circulation**
14 **in an adjoining city or county or in such city or county**
15 **having a newspaper of general circulation as is**
16 **geographically closest to the port authority.**

17 2. The port authority shall have the power and
18 authority to reject any and all bids or proposals and to
19 readvertise the work or proposed purchase.

68.060. 1. Any combination of cities and counties
2 that do not have local port authorities approved by the
3 highways and transportation commission of the state of
4 Missouri as of the effective date of this section but that
5 are individually eligible to form local port authorities,
6 and [cities and counties with] **the boards of** existing local
7 port authorities, are authorized to directly apply to the
8 highways and transportation commission of the state for

9 approval of a regional port authority as a political
10 subdivision of the state.

11 2. The **boards of existing local port authorities and**
12 **the** legislative bodies or county commissions of cities or
13 counties desiring to form a regional port authority, **or such**
14 **other persons as may be designated by charter for those**
15 **cities or counties operating under a charter form of**
16 **government**, are hereby authorized to enter into contractual
17 agreements with each other for the purpose of creating
18 within each jurisdiction regional port districts
19 administered by the regional port authority. All terms and
20 provisions of said contractual agreements shall be
21 consistent with the provisions of this chapter. The
22 contractual agreement shall be filed in the office of county
23 clerk, city clerk or clerk of the county council of each
24 party to the agreement.

25 3. The boundaries of any regional port district, and
26 the number, method of appointment, terms, qualifications,
27 salaries, powers and duties of a regional board of
28 commissioners shall be fixed by the contractual agreement;
29 provided, however, that any contractual agreement shall not
30 become effective until it has been submitted to and approved
31 by:

32 (1) All of the legislative bodies or county
33 commissions entering into said contractual agreement, **or**
34 **such other persons as may be designated by charter for those**
35 **cities or counties operating under a charter form of**
36 **government, with respect to those cities and counties not**
37 **having local port authorities approved by the highways and**
38 **transportation commission of the state of Missouri as of the**
39 **effective date of this section; and**

40 (2) The boards of the existing port authorities.

41 4. The port districts to be included within the
42 regional port authority need not be contiguous, adjacent, or
43 abutting.

44 5. Any local port authority is authorized to contract
45 with an existing regional port authority for inclusion in
46 the regional port authority. The contractual agreement
47 shall be formulated by the terms and procedures expressed in
48 subsections 2 and 3 of this section. Approval of the
49 highways and transportation commission shall be required to
50 make the annexation effective.

51 6. Any local port authority established by a city or
52 county, that subsequently enters into a contractual
53 agreement and is approved as part of a regional port
54 authority, is dissolved as of the date that the annexation
55 is approved by the highways and transportation commission of
56 the state. On said date, all funds and other assets of the
57 local port authority shall be transferred to the regional
58 port authority. The regional port authority shall
59 faithfully perform all existing contracts and assume all
60 legal obligations of the local port authority.

68.075. 1. This section shall be known and may be
2 cited as the "Advanced Industrial Manufacturing Zones Act".

3 2. As used in this section, the following terms shall
4 mean:

5 (1) "AIM zone", an area identified through a
6 resolution passed by the port authority board of
7 commissioners appointed under section 68.045 that is being
8 developed or redeveloped for any purpose so long as any
9 infrastructure and building built or improved is in the
10 development area. The port authority board of commissioners
11 shall file an annual report indicating the established AIM
12 zones with the department of revenue;

13 (2) "County average wage", the average wage in each
14 county as determined by the Missouri department of economic
15 development for the most recently completed full calendar
16 year. However, if the computed county average wage is above
17 the statewide average wage, the statewide average wage shall
18 be deemed the county average wage for such county for the
19 purpose of determining eligibility;

20 (3) "New job", the number of full-time employees
21 located at the project facility that exceeds the project
22 facility base employment less any decrease in the number of
23 full-time employees at related facilities below the related
24 facility base employment. No job that was created prior to
25 the date of the [notice of intent] **establishment of the AIM**
26 **zone** shall be deemed a new job, **except that any job**
27 **determined by the Missouri department of economic**
28 **development to be eligible for and that is approved by the**
29 **Missouri department of economic development for retention of**
30 **withholding tax under the Missouri works program established**
31 **in sections 620.2000 to 620.2020 shall be deemed a new job**
32 **for purposes of this section only, provided that the**
33 **establishment of the AIM zone immediately follows the end of**
34 **the period of benefits under the Missouri works program.** An
35 employee that spends less than fifty percent of the
36 employee's work time at the facility is still considered to
37 be located at a facility if the employee receives his or her
38 directions and control from that facility, is on the
39 facility's payroll, one hundred percent of the employee's
40 income from such employment is Missouri income, and the
41 employee is paid at or above the county average wage;

42 (4) "Related facility", a facility operated by a
43 company or a related company prior to the establishment of
44 the AIM zone in question located within any port district,

45 as defined under section 68.015, which is directly related
46 to the operations of the facility within the new AIM zone.

47 3. Any port authority located in this state may
48 establish an AIM zone. Such zone may only include the area
49 within the port authority's jurisdiction, ownership, or
50 control, and may include any such area. The port authority
51 shall determine the boundaries for each AIM zone, and more
52 than one AIM zone may exist within the port authority's
53 jurisdiction or under the port authority's ownership or
54 control, and may be expanded or contracted by resolution of
55 the port authority board of commissioners.

56 4. Fifty percent of the state tax withholdings imposed
57 by sections 143.191 to 143.265 on new jobs within such zone
58 after development or redevelopment has commenced shall not
59 be remitted to the general revenue fund of the state of
60 Missouri. Such moneys shall be deposited into the port
61 authority AIM zone fund established under subsection 5 of
62 this section for the purpose of continuing to expand,
63 develop, and redevelop AIM zones identified by the port
64 authority board of commissioners and may be used for
65 managerial, engineering, legal, research, promotion,
66 planning, satisfaction of bonds issued under section 68.040,
67 and any other expenses.

68 5. There is hereby created in the state treasury the
69 "Port Authority AIM Zone Fund", which shall consist of money
70 collected under this section. The state treasurer shall be
71 custodian of the fund and shall approve disbursements from
72 the fund in accordance with sections 30.170 and 30.180 to
73 the port authorities from which the funds were collected,
74 less the pro-rata portion appropriated by the general
75 assembly to be used solely for the administration of this
76 section which shall not exceed ten percent of the total

77 amount collected within the zones of a port authority.
78 Notwithstanding the provisions of section 33.080 to the
79 contrary, any moneys remaining in the fund at the end of the
80 biennium shall not revert to the credit of the general
81 revenue fund. The state treasurer shall invest moneys in
82 the fund in the same manner as other funds are invested.
83 Any interest and moneys earned on such investments shall be
84 credited to the fund.

85 6. The port authority shall approve any projects that
86 begin construction and disperse any money collected under
87 this section. The port authority shall submit an annual
88 budget for the funds to the department of economic
89 development explaining how and when such money will be spent.

90 7. The provision of section 23.253 notwithstanding, no
91 AIM zone may be established after August 28, 2030. Any AIM
92 zone created prior to that date shall continue to exist and
93 be coterminous with the retirement of all debts incurred
94 under subsection 4 of this section. No debts may be
95 incurred or reauthorized using AIM zone revenue after August
96 28, 2030.

68.080. 1. There is hereby established in the state
2 treasury the "Waterways and Ports Trust Fund". The fund
3 shall consist of revenues appropriated to it by the general
4 assembly.

5 2. The fund may also receive any gifts, contributions,
6 grants, or bequests received from federal, private, or other
7 sources.

8 3. The fund shall be a revolving trust fund exempt
9 from the provisions of section 33.080 relating to the
10 transfer of unexpended balances by the state treasurer to
11 the general revenue fund of the state. All interest earned

12 upon the balance in the fund shall be deposited to the
13 credit of the fund.

14 4. Moneys in the fund shall be withdrawn only **at the**
15 **request of a Missouri port authority for statutorily**
16 **permitted port purposes and** upon appropriation by the
17 general assembly, to be administered by the state highways
18 and transportation commission and the department of
19 transportation, in consultation with Missouri public ports,
20 for the purposes in subsection 2 of section 68.035 and for
21 no other purpose. To be eligible to receive an
22 appropriation from the fund, a project shall be:

23 (1) A capital improvement project implementing
24 physical improvements designed to improve commerce or
25 terminal and transportation facilities on or adjacent to the
26 navigable rivers of this state;

27 (2) Located on land owned or held in long-term lease
28 by a Missouri port authority, **or on land owned by a city not**
29 **within a county and managed by a Missouri port authority,** or
30 within a navigable river adjacent to such land, and within
31 the boundaries of a port authority;

32 (3) Funded by alternate sources so that moneys from
33 the fund comprise no more than eighty percent of the cost of
34 the project;

35 (4) Selected and approved by the highways and
36 transportation commission, in consultation with Missouri
37 public ports, to support a statewide plan for waterborne
38 commerce, in accordance with subdivision (1) of section
39 68.065; and

40 (5) Capable of completion within two years of approval
41 by the highways and transportation commission.

42 5. Appropriations made from the fund established in
43 this section may be used as a local share in applying for
44 other grant programs.

45 6. The provisions of this section shall terminate on
46 August 28, 2033, pending the discharge of all warrants. On
47 December 31, 2033, the fund shall be dissolved and the
48 unencumbered balance shall be transferred to the general
49 revenue fund.

**68.085. 1. Records and documents submitted to a local
2 or regional port authority and pertaining to a business
3 prospect that the port authority is currently negotiating
4 may be deemed a closed record as such term is defined in
5 section 610.010.**

**2. Records and documents deemed a closed record under
6 section 620.014 and that are disclosed, in whole or in part,
7 to a local or regional port authority evaluating the
8 provision of assistance under this chapter shall not lose
9 their status as closed records by virtue of such disclosure.
10**

 68.205. As used in sections 68.200 to 68.260, unless
2 the context clearly requires otherwise, the following terms
3 shall mean:

4 (1) "Act", the port improvement district act, sections
5 68.200 to 68.260;

6 (2) "Approval", for purposes of elections pursuant to
7 this act, a simple majority of those qualified voters
8 casting votes in any election;

9 (3) "Board", the board of port authority commissioners
10 for the particular port authority that desires to establish
11 or has established a district;

12 (4) "Consent", the written acknowledgment and approval
13 of the creation of the district by:

14 (a) Owners of real property collectively owning more
15 than ~~[sixty]~~ **fifty** percent by assessed value of real
16 property within the boundaries of the proposed port
17 improvement district; and

18 (b) More than ~~[sixty]~~ **fifty** percent per capita of the
19 owners of all real property within the boundaries of the
20 proposed port improvement district;

21 (5) "Director of revenue", the director of the
22 department of revenue of the state of Missouri;

23 (6) "Disposal of solid waste or sewage", the entire
24 process of storage, collection, transportation, processing,
25 and disposal of solid wastes or sewage;

26 (7) "District" or "port improvement district", an area
27 designated by the port authority which is located within its
28 port district boundaries at the time of establishment;

29 (8) "Election authority", the election authority
30 having jurisdiction over the area in which the boundaries of
31 the district are located under chapter 115;

32 (9) "Energy conservation", the reduction of energy
33 consumption;

34 (10) "Energy efficiency", the increased productivity
35 or effectiveness of the use of energy resources, the
36 reduction of energy consumption, or the use of renewable
37 energy sources;

38 (11) "Obligations", revenue bonds and notes issued for
39 the repayment of any money obtained by a port authority from
40 any public or private source along with any associated
41 financing costs, including, but not limited to, the costs of
42 issuance, capitalized interest, and debt service;

43 (12) "Owner", the individual or individuals or entity
44 or entities who own a fee interest in real property that is
45 located within the boundaries of a district based upon the

46 recorded real estate records of the county recorder, or the
47 city recorder of deeds if the district is located in a city
48 not within a county, as of the thirtieth day prior to any
49 action;

50 (13) "Petition", a petition to establish a port
51 improvement district within the port district boundaries or
52 a petition to make a substantial change to an existing
53 district;

54 (14) "Pollution", the existence of any noxious
55 substance in the air or waters or on the lands of the state
56 in sufficient quantity and of such amounts, characteristics,
57 and duration as to injure or harm the public health or
58 welfare or animal life or property;

59 (15) "Port authority", a political subdivision
60 established pursuant to this chapter;

61 (16) "Port district boundaries", the boundaries of any
62 port authority on file with the clerk of the county
63 commission, city clerk, or clerk of the legislative or
64 governing body of the county as applicable, which became
65 effective upon approval by the Missouri highways and
66 transportation commission;

67 (17) "Project" or "port improvement project", with
68 respect to any property within a port improvement district,
69 or benefitting property within a port improvement district:

70 (a) Providing for, or contracting for the provision
71 of, environmental cleanup, including the disposal of solid
72 waste, services to brownfields, or other polluted real
73 property;

74 (b) Providing for, or contracting for the provision
75 of, energy conservation or increased energy efficiency
76 within any building, structure, or facility;

77 (c) Providing for, or contracting for the provision
78 of, wetland creation, preservation, or relocation;

79 (d) The construction of any building, structure,
80 infrastructure, fixture, or facility determined by the port
81 authority as essential in developing energy resources,
82 preventing, reducing, or eliminating pollution, or providing
83 water facilities or the disposal of solid waste;

84 (e) Modifications to, or the relocation of, any
85 existing building, structure, infrastructure, fixture, or
86 facility that has been acquired or constructed, or which is
87 to be acquired or constructed for the purpose of developing
88 energy resources, preventing, reducing, or eliminating
89 pollution, or providing water facilities or the disposal of
90 solid waste;

91 (f) The acquisition, clearing, and grading of real
92 property and the acquisition of other property and
93 improvements, or rights and interest therein, which are
94 determined by the port authority to be significant in, or in
95 the furtherance of, the history, architecture, archeology,
96 or culture of the United States, the state of Missouri, or
97 its political subdivisions;

98 (g) The operation, maintenance, repair,
99 rehabilitation, or reconstruction of any existing public or
100 private building, structure, infrastructure, fixture, or
101 facility determined by the port authority to be significant
102 in, or in the furtherance of, the history, architecture,
103 archeology, or culture of the United States, the state of
104 Missouri, or its political subdivisions;

105 (h) The construction of any new building, structure,
106 infrastructure, fixture, or facility that is determined by
107 the port authority to be significant in, or in the
108 furtherance of, the history, architecture, archeology, or

109 culture of the United States, the state of Missouri, or its
110 political subdivisions;

111 (i) Providing for any project determined to be
112 significant in or in furtherance of the purpose of a port
113 authority as provided in section 68.020;

114 (18) "Qualified project costs", include any and all
115 reasonable costs incurred or estimated to be incurred by a
116 port authority, or a person or entity authorized by a port
117 authority, in furtherance of a port improvement project,
118 which costs may include, but are not limited to:

119 (a) Costs of studies, plans, surveys, and
120 specifications;

121 (b) Professional service costs, including, but not
122 limited to, architectural, engineering, legal, research,
123 marketing, financial, planning, consulting, and special
124 services, including professional service costs necessary or
125 incident to determining the feasibility or practicability of
126 any project and carrying out the same;

127 (c) Administrative fees and costs of a port authority
128 in carrying out any of the purposes of this act;

129 (d) Property assembly costs, including, but not
130 limited to, acquisition of land and other property and
131 improvements, real or personal, or rights or interests
132 therein, demolition of buildings and structures, and the
133 clearing or grading of land, machinery, and equipment
134 relating to any project, including the cost of demolishing
135 or removing any existing structures;

136 (e) Costs of operating, rehabilitating,
137 reconstructing, maintaining, and repairing existing
138 buildings, structures, infrastructure, facilities, or
139 fixtures;

140 (f) Costs of constructing new buildings, structures,
141 infrastructure, facilities, or fixtures;

142 (g) Costs of constructing, operating, rehabilitating,
143 reconstructing, maintaining, repairing or removing public
144 works or improvements;

145 (h) Financing costs, including, but not limited to,
146 all necessary and incidental expenses related to the port
147 authority's issuance of obligations, which may include
148 capitalized interest on any such obligations and reasonable
149 reserves related to any such obligations;

150 (i) All or a portion of the port authority's capital
151 costs resulting from a port improvement project necessarily
152 incurred or to be incurred in furtherance of a port
153 improvement project, to the extent the port authority
154 accepts and approves such costs; and

155 (j) Relocation costs, to the extent that a port
156 authority determines that relocation costs shall be paid, or
157 are required to be paid, by federal or state law;

158 (19) "Qualified voters", for the purposes of an
159 election for the approval of a real property tax or a sales
160 and use tax:

161 (a) Registered voters residing within the district; or

162 (b) If no registered voters reside within the
163 district, the owners of one or more parcels of real property
164 within the district which would be subject to such real
165 property taxes or sales and use taxes, as applicable, based
166 upon the recorded real estate records of the county
167 recorder, or the city recorder of deeds if the district is
168 located in a city not within a county, as of the thirtieth
169 day prior to the date of the applicable election;

170 (20) "Registered voters", persons who reside within
171 the district and who are qualified and registered to vote

172 pursuant to chapter 115 as determined by the election
173 authority as of the thirtieth day prior to the date of the
174 applicable election;

175 (21) "Respondent", unless the port authority is the
176 owner of all real property within the proposed district, the
177 municipality or municipalities within which the proposed
178 district is located, the county or counties within which the
179 proposed district is located, the Missouri highways and
180 transportation commission when the proposed district shall
181 be within the highways of the state of Missouri, and any
182 other political subdivision within the boundaries of the
183 proposed port improvement district, except the petitioning
184 port authority;

185 (22) "Revenues", all rents, revenues from any levied
186 real property tax and sales and use tax, charges and other
187 income received by a port authority in connection with any
188 project, including any gift, grant, loan, or appropriation
189 received by the port authority with respect thereto;

190 (23) "Substantial changes", with respect to an
191 established port improvement district, the addition or
192 removal of real property to or from the port improvement
193 district and any changes to the approved district funding
194 mechanism; [and]

195 (24) "Taxpayer", a person or owner of real property
196 within the proposed district who would pay any real estate
197 or use tax as a result of the district establishment;

198 (25) "Water facilities", any facilities for the
199 furnishing and treatment of water for industrial,
200 commercial, agricultural, or community purposes including,
201 but not limited to, wells, reservoirs, dams, pumping
202 stations, water lines, sewer lines, treatment plants,

203 stabilization ponds, storm sewers, storm water detention and
204 retention facilities, and related equipment and machinery.

68.253. Notwithstanding any provision of sections
2 68.200 to 68.260 to the contrary, if the port authority is
3 the owner of all the real property within the proposed
4 district or existing district for which a substantial change
5 has been proposed or one hundred percent per capita of the
6 owners of all the real property within the proposed district
7 or existing district for which a substantial change has been
8 proposed have consented in writing to the creation of the
9 proposed district or substantial change, consideration of
10 the petition by the circuit court shall not be required. In
11 such event, certification of any question with respect to
12 any tax proposed to be levied or modified shall be made by
13 the board of port authority commissioners and thereafter
14 provided to the election authority as otherwise provided by
15 section 68.250.

640.406. 1. For the purposes of this section, the
2 following terms mean:

3 (1) "Applicant", any person applying for a water
4 exportation permit;

5 (2) "Beneficial uses", water uses, which include, but
6 are not limited to, domestic, agricultural, industrial,
7 recreational, and other legitimate beneficial uses;

8 (3) "Commission", the state soil and water districts
9 commission under section 278.080;

10 (4) "Department", the Missouri department of natural
11 resources;

12 (5) "Director", the director of the department of
13 natural resources;

14 (6) "End use", the final location for which the
15 exported water will be used, consumed, or applied for a
16 stated beneficial use;

17 (7) "Person", any individual, partnership,
18 copartnership, firm, company, public or private corporation,
19 association, joint stock company, trust, estate, political
20 subdivision, water district, or any agency, board,
21 department, or bureau of the federal or any state
22 government, or any other legal entity which is recognized by
23 law as the subject of rights and duties;

24 (8) "Pipeline facility", all parts of a facility
25 through which water moves in transportation including, but
26 not limited to, pipe, valves, and other appurtenances
27 connected to pipe, pumping units, fabricated assemblies
28 associated with pumping units, metering, and delivery
29 stations and fabricated assemblies therein, and breakout
30 tanks;

31 (9) "Water exportation permit", a permit issued by the
32 department, approved by the commission, granting the
33 exportation of water outside the state of Missouri subject
34 to the provisions of this section;

35 (10) "Water resources", any Missouri water source
36 occurring on the surface, in natural or artificial channels,
37 lakes, reservoirs, or impoundments, and in subsurface
38 aquifers which are available or which may be made available.

39 2. In order to protect the access, use, and enjoyment
40 of Missouri's water resources, it shall be unlawful for any
41 person to export water resources outside the state of
42 Missouri unless such person holds a water exportation permit
43 issued by the department, subject to the following
44 exemptions:

45 (1) If the withdrawal and end use of water resources
46 are within thirty miles of the border of the state, any
47 person exempt under the provision of this section shall
48 report to the director annually the person's water use
49 volumes and withdrawal rates in a format and timeline
50 determined by the director. Such report shall be made
51 available to the public by the department on the
52 department's website. Such report shall also be provided to
53 the commission; and

54 (2) Exportation of bottled water, or water packaged in
55 containers intended for single use.

56 3. It shall be unlawful for any person to withdraw
57 water from any water resource for exportation outside the
58 state of Missouri by use of a pipeline facility, unless the
59 withdrawal and ultimate end use of the water by the pipeline
60 facility is within thirty miles of the state border. Any
61 person who withdraws water for exportation under this
62 subsection shall annually report the water use volumes,
63 withdrawal rates, and end use to the department in a manner
64 and on timelines determined by the department.

65 4. The director shall review each water exportation
66 permit application and all supporting materials to ensure
67 all the following conditions have been met prior to
68 accepting a water exportation permit application for public
69 comment and review by the commission:

70 (1) There are water resources available in the volumes
71 and withdrawal rates requested by the applicant for export;

72 (2) The applicant has demonstrated both a present need
73 and beneficial use for the water resources. In making the
74 determination of need and beneficial use, the director shall
75 consider the availability of all water sources, whether in

76 state or out of state, along with other relevant factors as
77 the director and the commission deem appropriate;

78 (3) The volume and withdrawal rates requested by the
79 applicant shall not interfere with existing and projected in-
80 state beneficial uses;

81 (4) The applicant has demonstrated that water in the
82 amounts and rates requested can feasibly be exported to meet
83 its intended beneficial uses;

84 (5) The applicant has provided relevant information
85 and the director and the commission confirmed that issuance
86 of a water exportation permit is necessary for the
87 beneficial use of the applicant or the applicant's
88 customers, and the beneficial use at the end use location is
89 not reasonably attainable through a method other than
90 granting a water exportation permit under this section;

91 (6) In the event of a conflict between the beneficial
92 use outside the state and the beneficial use needs in the
93 state, the director and the commission shall prioritize the
94 beneficial use needs of the state and its citizens over the
95 applicant or other state; and

96 (7) Whenever a person applies for a water exportation
97 permit or water exportation permit renewal, the department
98 shall send a written notice within thirty business days
99 after receiving the permit application to the county
100 commission of the county where the water for exportation is
101 located.

102 5. Within one hundred twenty days after the receipt of
103 a complete application, the director shall determine whether
104 the applicant complied with provisions of subsection 4 of
105 this section. The director shall, after making such
106 determination, hold a thirty-day public comment period
107 regarding the director's determination. Within sixty days

108 after the comment period, the director shall recommend
109 approval or denial of the permit. Such recommendation,
110 along with all public comments, shall be submitted to the
111 commission. The commission shall have a public hearing
112 within thirty days after receipt of the director's
113 recommendation. This public hearing may be scheduled during
114 one of the commission's regular scheduled meetings. The
115 commission shall make a final decision to approve or deny
116 the water exportation permit within thirty days after the
117 public hearing. A three-fourths majority of the commission
118 members present shall be required to approve the issuance or
119 renewal of a water exportation permit.

120 (1) To renew a valid water exportation permit, an
121 applicant shall file a renewal application for a water
122 exportation permit with the department no later than two
123 hundred seventy-one days prior to the expiration of the
124 existing water exportation permit. The applicant, director,
125 and the commission shall follow the same procedures and
126 timelines as required for the issuance of a new water
127 exportation permit under this section. The director may
128 impose additional conditions to address any substantial or
129 material change in factors under subsection 4 of this
130 section or may deny a renewal application as necessary to
131 comply with this section based on any such substantial or
132 material changes in factors under subsection 4 of this
133 section. If the director or the commission are in the
134 process of reviewing the renewal application before the
135 final decision is made and the existing applicant's water
136 exportation permit expires, such applicant shall be able to
137 operate under the terms of the expired water exportation
138 permit until a final decision is made by the commission on
139 the renewal of such permit.

140 (2) In the absence of an appeal as provided under
141 chapter 536, the decision of the commission shall be final.

142 6. A water exportation permit shall be in effect for
143 three years from the date of issuance. The permit holder
144 shall annually report the water use volumes, withdrawal
145 rates, and end use to the department in a manner and on
146 timelines determined by the department. Such report shall
147 be made available to the public on the department's website.

148 7. The water exportation permit application shall
149 include all water exportation requested by the applicant.
150 The water exportation permit may be approved in whole or in
151 part by the director or the commission. This section shall
152 be interpreted to allow one applicant to include multiple
153 water withdrawals for exportation from various locations
154 within one water exportation permit application.

155 8. A water exportation permit application shall
156 include a designee or agent in the state of Missouri for
157 service of process and to receive other notices.

158 9. A major water user, as defined in section 256.400,
159 may request the department to reevaluate any existing water
160 exportation permit using the criteria under subsection 4 of
161 this section. The department shall create a mechanism for a
162 major water user to submit a request for reevaluation and
163 shall provide the major water user with the director's
164 findings within one hundred and twenty days of the request
165 for reevaluation. After reevaluating the permit, the
166 director shall impose additional conditions necessary for
167 the continued exportation of water outside the state if the
168 director determines that the existing permit is negatively
169 impacting the requesting major water user's beneficial use
170 of his or her water resources. The director's decision to
171 modify or to decline to modify the conditions in an existing

172 permit pursuant to this subsection shall be subject to
173 approval by the commission.

174 10. Nothing in this section shall preclude a person
175 from bringing any constitutional, statutory, or common law
176 claim to vindicate or otherwise defend the person's water
177 rights. A permit issued under this section shall not serve
178 as a defense to any claim brought against a water permit
179 holder for the infringement of water rights. In addition,
180 any person harmed by the issuance of a water exportation
181 permit may bring an injunctive action or other appropriate
182 action to enforce the provisions of this section. Suits may
183 be brought in the county where the defendant's principal
184 place of business is located or where the withdrawal of
185 water occurred in violation of this section.

186 11. If the attorney general receives a complaint that
187 provisions of this section have been violated, or, at the
188 request of the department, the attorney general shall bring
189 an injunctive action or other appropriate action in the name
190 of the people of the state to enforce provisions of this
191 section. Suit may be brought in Cole County, or in any
192 county where the defendant's principal place of business is
193 located or where the withdrawal of water occurred in
194 violation of this section. Any member of the commission
195 deemed to have violated any provision of this section shall
196 forfeit their office upon such finding of a violation.

197 12. Whenever a state of emergency is declared by the
198 governor under section 44.100 for all or any part of the
199 state, based on drought conditions, the department shall
200 reevaluate any existing water exportation permit. Any
201 reevaluation completed under this section shall use the
202 criteria under subsection 4 of this section. After
203 reevaluation of the permit is complete, the department shall

204 have the authority to impose additional conditions or revoke
205 the permit if necessary for the continued exportation of
206 water outside the state if the director determines that the
207 existing permit negatively impacts beneficial use of water
208 resources. The director's decision to modify, revoke, or
209 make no changes to the permit shall be subject to the
210 approval or denial of the commission.

2 [68.259. Notwithstanding the provisions of
3 section 1.140 to the contrary, the provisions of
4 sections 68.025, 68.035, 68.040, 68.057, 68.070,
5 68.200, 68.205, 68.210, 68.215, 68.220, 68.225,
6 68.230, 68.235, 68.240, 68.245, 68.250, 68.255,
7 and 68.260 as contained in this act shall be
8 severable, and if any provision is for any
9 reason held to be invalid, such decision shall
10 not invalidate any of the remaining provisions
11 of sections 68.025, 68.035, 68.040, 68.057,
12 68.070, 68.200, 68.205, 68.210, 68.215, 68.220,
13 68.225, 68.230, 68.235, 68.240, 68.245, 68.250,
68.255, and 68.260 as contained in this act.]

Section B. If any provision of subsection 3 of section
2 640.406 of this act or the application thereof to anyone or
3 to any circumstance is held invalid, the remainder of those
4 sections and the application of such provisions to others or
5 other circumstances shall not be affected thereby.

✓