

# MINNESOTA STATUTES 1971

4913 WATER TRANSPORTATION FACILITIES; PORT AUTHORITIES 458.03

## CHAPTER 458

### WATER TRANSPORTATION FACILITIES; PORT AUTHORITIES

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### TRANSPORTATION TERMINALS

458.01 [Repealed, 1949 c 119 s 110]

**458.02 FREIGHT AND PASSENGER TRANSPORTATION TERMINALS.** Any city in this state now or hereafter having a population of not less than 4,000, and not more than 50,000, shall have the power to acquire and hold in fee simple, by purchase or condemnation, land for the establishment of docks, quays, levees, wharves, landing places, railroad and other land transportation loading and unloading places, land and water freight and passenger stations, terminals and terminal buildings for any and all kinds of carriers and necessary equipment and appurtenances on any navigable stream within the limits of such city and may set aside such portions of the land when acquired, as the public needs may require, for use for public travel and shall devote the remainder thereof to the uses herein provided, or if required by the United States government.

[1927 c 152 s 1; 1965 c 45 s 60] (1372-1)

**458.03 CONSTRUCTION OF DOCKS; CHARGES.** Such cities shall have the power to construct, erect, and maintain on any such land so acquired, docks, quays, levees, wharves, landing places, railroad, and other transportation loading and unloading places, and water freight and passenger stations, terminals and terminal buildings for any and all kinds of carriers and necessary equipment and appurtenances; and such city shall have the power and is hereby authorized to charge a reasonable price for the use of such docks, quays, levees, wharves, and landing

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places, railroad and other land transportation loading and unloading places, land and water freight and passenger stations, terminals and terminal buildings for any and all kinds of carriers and necessary equipment and appurtenances, such reasonable price to be determined and fixed by the council or governing body of such city, and the making of such charge shall in no way be held to impair, affect or invalidate such bonds.

[1927 c 152 s 2] (1372-2)

458.04-458.08 [Expired]

### PORT AUTHORITIES

**458.09 PORT AUTHORITY COMMISSION, APPLICATION TO SEAWAY PORT AUTHORITIES.** Subdivision 1. A commission to be known as "Port Authority of....." is hereby established in and for every city of the state which has, or shall have over 50,000 inhabitants and which is or shall be situated upon, or adjacent to, or which embraces or shall embrace within its boundaries, in whole or in part, a port or harbor located on a navigable lake or stream. Sections 458.09 to 458.19 are expressly declared to be applicable to all such cities. Those port authorities now or hereafter having jurisdiction over harbors located on the Great Lakes-St. Lawrence seaway system shall be known and are referred to in sections 458.09 to 458.19 as seaway port authorities. A port authority shall be a body politic and corporate in the state of Minnesota with the right to sue and be sued in the names above designated. A port authority shall also be considered a governmental subdivision within the meaning of Minnesota Statutes, Section 282.01. The exercise by any such authority or commission of any of its powers shall be deemed and held to be essential governmental functions of the state of Minnesota, but any such authority shall not be immune from liability by reason thereof.

Subd. 2. Any port authority, created and existing pursuant to this section, the membership of which has been appointed under section 458.10, subdivisions 1 or 2, shall have jurisdiction and shall be empowered to exercise and apply any and all of its powers and duties, as defined in sections 458.09 to 458.1991, at any place or places within the entire geographical area included within the boundary limits of the city of the first class in which said port authority is located, and said area of operations shall be known and described as the port district. The power to lease property which the port authority, in its discretion, believes suitable and proper to be put to use by the port authority in the execution of its duties and responsibilities is not to be deemed limited to said port district, but the port authority shall have the power to lease such property either within or without said port district for such purpose.

Subd. 3. The term "port authority" when used in those sections shall be deemed to include seaway port authorities.

[1929 c 61 s 1; 1931 c 132 s 1; 1955 c 685 s 1; 1957 c 812 s 1; 1957 c 831 s 1; 1959 c 316 s 1; 1961 c 357 s 1; 1965 c 45 s 61; 1969 c 731 s 1, 2] (1372-7½)

**458.10 MEMBERSHIP.** Subdivision 1. Such port authority for any city shall consist of three commissioners who shall be appointed by the council of each city in and for which such port authority is hereby created. The first commissioners of any such port authority shall be appointed for terms as follows: one for two years; one for four years; and one for six years.

Upon passage of a formal resolution of the governing body of any city having a port authority created under the terms of this subdivision and now existing, the port authority of such city shall be increased to seven commissioners, two of whom shall be members of the governing body of such city. The members of such port authority shall be chosen by the mayor with the approval and consent of the governing body of such city and shall serve for a period of six years, provided that the members of any such port authority now existing shall be appointed for the remainder of their unexpired terms to such port authority.

The members of the governing body of the city appointed to such port authority shall hold such office for a period of six years, provided that they are, at all times of such service on the port authority, members of the governing body of such city. When such members are no longer members of the governing body of such city, their terms on such port authority shall terminate, and the mayor of such city with the approval and consent of the governing body of such city shall then fill

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such vacancies. A vacancy in the office of any commissioner shall be filled by the mayor with the approval and consent of the governing body for the balance of the term in which vacancy occurs.

Any authority expanded in accordance with the provisions of this subdivision shall be deemed to be a continuation of the former commission.

The provisions of this section shall not apply to any port authority, now existing and qualified, under subdivisions 2 and 3 of this section.

Subd. 2. Upon resolution unanimously adopted by any such port authority, it shall consist of seven commissioners. Three commissioners shall be appointed in accordance with subdivision 1, two additional commissioners shall be appointed by the board of commissioners of the county in which said city shall be located, one for a term to expire January 1, 1956, and one for a term to expire January 1, 1958; and two shall be appointed by the governor, one for a term to expire January 1, 1960, and one for a term to expire January 1, 1961. Any port authority expanded in accordance with the provisions of this subdivision shall be deemed to be a continuation of the former commission.

Subd. 3. When the term of any commissioner expires, a successor shall be appointed to serve for a term of six years. A vacancy in the office of any commissioner shall be filled by the appointing authority for such office for the balance of the term in which such vacancy occurs. In the event of the failure of the governor or board of commissioners to act within sixty days from the time a vacancy occurs, the council of any such city shall have sole power to appoint a successor.

Subd. 4. All commissioners shall serve without compensation for their services, or any remuneration, save for expenses incurred in the performance of their duty.

Subd. 5. There shall also be appointed to serve in an advisory capacity only to such port authority one member of the Minnesota State Senate who represents such county in the Senate and one member of the Minnesota House of Representatives who represents such county in the House of Representatives. If such county is represented in the Minnesota legislature by only one senator and one representative, these members of the legislature shall serve on such commission. If the county is represented by more than one senator and more than one representative in the legislature, the members of that county's Minnesota Senate delegation representing such county shall choose and appoint such senator so to serve, and the members of the House delegation representing such county shall choose and appoint such representative so to serve. Such appointed senator and representative, serving on such commission, shall serve only in a consultant and advisory capacity, and shall receive no pay nor emoluments of any kind for such service.

[1929 c 61 s 2; 1955 c 685 s 2; 1957 c 812 s 2; 1957 c 926 s 1] (1972-7½)

**458.11 BYLAWS AND RULES; DUTIES.** The commissioners constituting such port authority may adopt bylaws and rules of procedure governing their action, not inconsistent with this or other laws, and shall adopt an official seal. They shall elect from among their number a president, a vice-president and a treasurer, and shall also elect a secretary and an assistant treasurer who may or may not be a member of such commission; any of said offices except those of president and vice-president may be held by one commissioner. The officers shall have the duties and powers usually attendant upon such offices, and such other duties and powers not inconsistent herewith, as may be provided by the port authority. The treasurer shall receive and be responsible for all moneys of the port authority from whatever source derived, and the same shall be deemed public funds; he shall also be responsible for the acts of the assistant treasurer. He shall disburse the same only on check signed by himself and any other one officer of said port authority who shall be designated by resolution of the port authority, and each check shall state the name of the payee and the nature of the claim for which the same is issued. He shall keep an account of all moneys coming into his hands, showing the source of all receipts, and the nature, purpose and authority of all disbursements, and at least once each year, at times to be determined by the port authority, shall file with the secretary a detailed financial statement of the port authority showing all receipts and disbursements, the nature of the same, the moneys on hand, and the purposes for which the same are applicable, the credits and assets of the port authority and its outstanding liabilities, which report together with the treasurer's vouchers, shall be examined by the port authority and if found correct approved

by resolution entered on the records. The assistant treasurer shall have the powers and perform the duties of the treasurer in the event of the absence or disability of the treasurer. The treasurer of every port authority shall give bond to the state in a sum equal to twice the amount of money which will probably be in his hands at any time during any one year of his term, that amount to be determined at least annually by the port authority, such bond to be conditioned for the faithful discharge of his official duties, and to be approved as to both form and sureties by the port authority and filed with its secretary; such bond, however, shall not exceed \$300,000.

[1929 c 61 s 3; 1957 c 831 s 2; 1959 c 447 s 1] (1372-7½b)

**458.12 DEPOSITORIES DESIGNATED.** The port authority shall biennially designate a national or state bank or banks as depositories of its money. Such depositories shall be designated only within the state and upon condition that bonds approved as to form and surety by the port authority and at least equal in amount to the maximum sum expected to be on deposit at any one time, shall be first given by such depositories to the port authority, such bonds to be conditioned for the safe-keeping and prompt repayment of such deposits. When any of the funds of the port authority shall be deposited by the treasurer in any such depository, the treasurer and the sureties on his official bond shall, to such extent, be exempt from liability for the loss of any such deposited funds by reason of the failure, bankruptcy, or any other act or default of such depository; provided, that any such port authority may accept assignments of collateral by any depository of its funds to secure such deposits to the same extent and conditioned in the same manner as assignments of collateral are permitted by law to secure deposits of the funds of any such city.

[1929 c 61 s 4; Ex1937 c 28 s 1] (1372-7½c)

**458.13 TERRITORIAL JURISDICTION.** The territorial jurisdiction and authority of the port authority shall cover and include all portions of any city in and for which the same is created and established, and all portions of such port or harbor within the city. The city and those portions of such port or harbor, are hereinafter referred to as the port district.

[1929 c 61 s 5] (1372-7½d)

**458.14 RIGHT TO LEVY TAXES OR ASSESSMENTS FORBIDDEN.** The port authority shall have no right or authority to levy any tax or special assessment, nor to pledge the credit of the state, or any other subdivision or municipal corporation thereof; nor to incur any obligation enforceable upon any property, either within or without the port district, other than property owned by the port authority. Annually, at such time as may be fixed by charter, resolution, or ordinance of the city in and for which any such port authority is created, the port authority shall transmit to the council of such city a detailed estimate, in writing, of the amount of money which in its opinion will be required for the business and proper conduct of its affairs during the next ensuing fiscal year, in excess of any expected receipts from the conduct of its business, or other sources, and any such city, in addition to all other powers now possessed thereby, and in addition to, and in excess of any limitation upon the amount it is otherwise permitted by law to levy as taxes, is hereby granted the power and authority, in its discretion, to levy taxes for the benefit of, and for expenditure by, such port authority, not exceeding in any one year an amount equal to a tax of 15 one-hundredths of one mill upon the dollar of the assessed valuation thereof, upon all the taxable property in such city, excluding money and credits, and any amount so levied for such purposes shall be paid over by the city treasurer to the treasurer of the port authority, for expenditure by it, as above provided. The fiscal year of such port authority shall be identical with the fiscal year of such city. The board of county commissioners of any county in which any such city is located, is also hereby authorized to appropriate for the use of such port authority, and to include therefor in its levy for general revenue purposes, such amount as it may deem proper; provided, that the total amount permitted by law to be levied by any county for general revenue purposes shall not be deemed increased by this provision; the board of county commissioners in any county entitled to appoint members of a seaway port authority, may annually, upon receipt of a budget as specified above from such port authority, in its discretion levy a tax sufficient to produce a sum not exceeding \$50,000 for the benefit of and for expenditure by such port authority to defray the costs of its

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current operations in the next ensuing fiscal year which levy shall not be included in computing the amount of levies subject to tax limitations under any other provision of law. The appropriation to a port authority of moneys derived from any of the county taxes herein authorized shall not be subject to any budgetary law applicable to said county. Any amounts so appropriated or levied by the county shall be paid over by the county treasurer to the port authority for expenditure by it as herein provided, at such times and in such manner as the county board may provide. When any city entitled to appoint members of a seaway port authority has secured the approval of two-thirds of the members of the city council of such city to issue its general obligation bonds, the proceeds of which are to be appropriated to such seaway port authority, the board of county commissioners of any county entitled to appoint members of such seaway port authority may by five-sevenths vote issue general obligation bonds of the county in an amount not to exceed \$4,000,000, and appropriate the proceeds thereof to be used by such port authority for any or all of the purposes specified in section 458.15, if the county board by resolution determines that the conservation, development, reclamation, protection and improvement of lands under the jurisdiction of such port authority and the construction of port facilities thereon will promote the public welfare of the county at large and the economic well-being of its people, industries and commerce, and is an essential governmental function of the county, and can best be performed through the medium of such port authority. Any such bonds shall be issued, sold and secured as provided in Minnesota Statutes, Sections 475.60 to 475.753; an election shall not be necessary to the validity of such bonds.

[1929 c 61 s 6; 1955 c 685 s 3; 1957 c 648 s 1] (1372-7½e)

**458.15 CITY TO TRANSFER PROPERTY.** The council of any such city may, in its discretion, by majority vote, and with or without consideration, transfer or cause to be transferred to such port authority or may place in its possession and control, by lease, or other contract or agreement, either for a limited period or in fee, any dock, waterfront, or riparian property now or hereafter owned or controlled by such city, within the port district, but nothing in sections 458.09 to 458.19 contained shall be construed to impair or in any manner restrict any power of such city or any municipality to itself own, develop, use and improve port or terminal facilities. Any such city may issue its bonds for, and appropriate the proceeds thereof, to the purchase, construction, extension, improvement, and maintenance of docks, warehouses, or other port or terminal facilities owned or to be owned or operated by such port authority, other than a seaway port authority, under the same conditions, to the same extent and in the same manner as if such properties were public utility plants, needful public buildings and public conveniences from which revenue may be derived, and were owned or to be owned or operated solely by the city. Any city entitled to appoint members of a seaway port authority may issue its general obligation bonds in a sum not in excess of \$1,000,000 and appropriate the proceeds thereof for any of the foregoing purposes and for the conservation, development, reclamation, protection and improvement of lands under the jurisdiction of such seaway port authority. Such bonds shall be issued only after approval of two-thirds of the members of the city council of such city. Any such bonds shall be issued, sold and secured as provided in Minnesota Statutes, Sections 475.60 to 475.73; an election shall not be necessary to the validity of such bonds. Such city may also in its discretion and with or without compensation therefor furnish to such port authority offices, warehouses, or other structures and space with or without heat, light and other service, and such stenographic, clerical, engineering or other assistance as its council may determine. The city attorney or similar law officer of any such city shall be the attorney and legal adviser of the port authority, but this provision shall not impair the power of the port authority to employ additional counsel when in the judgment of its members such action is for any reason advisable.

[1929 c 61 s 7; 1957 c 831 s 3] (1372-7½f)

**458.16 POWERS AND DUTIES.** Subdivision 1. It shall be the general duty of any such port authority to promote the general welfare of the port district, and of the port as a whole; to endeavor to increase the volume of the commerce thereof; to promote the efficient, safe and economical handling of such commerce, and to provide or promote adequate docks, railroad and terminal facilities open to all upon reasonable and equal terms for the handling, storage, care and shipment of freight and passengers to, from and through the port.

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Subd. 2. It shall further be the special duty of such port authority:

(1) To confer with any similar body created under laws of any state embracing within its boundaries any part of any port or harbor of which the port district forms a part, and in so far as agreement shall be possible to adopt in conjunction with said similar body a comprehensive plan for the regulation and future development and improvement of the entire harbor and port;

(2) To consider and adopt detailed and comprehensive plans for the regulation, future development and improvement of the port district, which plans shall, so far as may be, be consistent with the general plan above referred to;

(3) To confer from time to time with any such similar body and, so far as may be, to agree therewith upon legislation and regulations needed for the regulation and control of the port as a whole, and to recommend the adoption of such legislation and regulations to the appropriate councils, legislatures or other legislative and regulatory bodies;

(4) To determine upon legislation and regulations needed for the regulation and improvement of the conduct of navigation and commerce within the port district and to similarly recommend the same;

(5) Either jointly with a similar body, or separately, to recommend to the proper departments of the government of the United States, or any state or subdivision of either, or to any other body, the carrying out of any public improvement for the benefit of the port or port district;

(6) To investigate the practices, rates and conduct of privately owned or operated dock, terminal and port facilities within the port district, and to institute such proceedings and take such steps to remedy any abuses as may seem in the public interest; in connection with any such investigation, the port authority shall have power, by subpoena issued out of the district court of the county where the port authority is situated, to require the attendance of witnesses and the production of books and documents, and to examine witnesses under oath;

(7) Annually by April 1 of each year to make written report to the council of such city, giving a detailed account of its activities and of its receipts and expenditures during the preceding calendar year, together with such further matters and recommendations as it shall deem advisable for the advancement of the commerce and welfare of the port district.

Subd. 3. Such port authorities as are hereby created and existing under the provisions of this act in the city of St. Paul shall have jurisdiction over recreation and recreation facilities along the river or the lands abutting thereon, and are hereby authorized to expend port authority moneys therefor, and shall have power to construct and maintain recreational facilities and set up regulations in conjunction therewith, either individually as such port authority or in cooperation with the United States Coast Guard, the local police department or the local department of parks and playgrounds. Such port authority, if it operates under this specific section, shall not have any police power; and this subsection shall not apply to any seaway port authority in the state of Minnesota.

Subd. 4. Any port authority operating under the provisions hereof and also under the provisions of Minnesota Statutes, Sections 458.191 to 458.1991 inclusive shall be authorized to deposit all funds and income accruing to it from any source whatsoever, whether it be the operation of the said port authority under the provisions of this act or its operations under Minnesota Statutes, Sections 458.19 to 458.1991, in a single bank account in a banking depository authorized by law.

Subd. 5. In furtherance of any of its authorized purposes any port authority or any seaway port authority may in its discretion provide for membership in any official, industrial, commercial, or trade association, or any other organization concerned with such purposes, for receptions of officials or others as may contribute to the advancement of the port district and any industrial development therein, and for such other public relation activities as will promote the same, and such activities shall be considered a public purpose.

[1929 c 61 s 8; 1959 c 447 s 2; 1959 c 699 s 1; 1963 c 247 s 1] (1372-742g)

NOTE: Laws 1959, Chapter 699, amended sections 458.16, 458.17, and 458.19. Section 4 thereof reads: "The amendments herein contained relating to the affairs of seaway port authorities apply to the seaway port authority of Duluth. As to said seaway port authority this law shall become effective upon approval by resolution duly adopted by the favorable vote of a majority of the commissioners of the authority. As to any other seaway port authorities to which this law may apply in the future, it shall become effective upon like approval by resolution of the commissioners of that port authority."

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Laws 1963, Chapter 254 reads: "Section 1. The port authority of the city of Saint Paul shall have jurisdiction over the use of the Mississippi River for recreation purposes within its port district and may acquire and may expend port authority moneys for lands abutting upon said river within said port district for the purpose of constructing, operating directly, by lease or otherwise, and maintaining recreation facilities and shall establish regulations controlling the use of said river and abutting lands, either individually as such port authority, or in cooperation with the United States Government or its agencies, the city of Saint Paul, the state of Minnesota and any of said state's agencies or political subdivisions. The port authority shall not have any police power by virtue of this act, nor shall it take lands owned, controlled, or used by the city of Saint Paul without consent of the council of the city of Saint Paul.

Sec. 2. This act is passed in lieu of and substitution for those provisions on the same subject contained in Minnesota Statutes 1961, Section 458.16, in the paragraph numbered (8).

Sec. 3. This act shall become effective upon approval by a majority of the members of the board of commissioners of the Port Authority of the City of Saint Paul and by a majority of the members of the common council of the city of Saint Paul, and upon compliance with the provisions of Minnesota Statutes 1961, Section 645.021."

**458.17 ADDITIONAL POWERS.** The port authority, in its own name, shall have full power and authority to acquire, purchase, construct, lease, or operate any bulkheads, jetties, piers, wharves, docks, landing places, warehouses, storehouses, elevators, cold storage plants, terminals, bridges, and such other terminal or transportation facilities as may be necessary or convenient for storing, handling, or transporting freight, for the handling of passenger traffic, and for the establishment of rail and water transfer within the district; to make rules, regulations, and charges for the use thereof, and for any service rendered; for such purposes to own, hold, lease, or operate real and personal property, to borrow money and to secure the same by bonds or mortgages upon any property held or to be held by it, and in the case of any seaway port authority only to issue and sell negotiable revenue bonds of the port authority for such purposes, or any of the purposes outlined in this chapter for the development of a seaport, such bonds to be issued, sold and secured in the same manner as provided below for the construction of a vehicular toll bridge or tunnel, except that a trust indenture may but is not required to be executed, and in and by the resolutions and indenture, if any, authorizing the bonds the port authority shall define the facilities whose net revenues are to be pledged thereto, and may in its discretion mortgage such facilities to a trustee for the bondholders, which facilities may be all of those owned by the authority (except any vehicular bridge or tunnel) and all subsequent additions thereto and betterments thereof, or may be restricted to one or more described facilities, including or not including the facilities financed by the bonds, and may be facilities which are either operated by the authority or are leased to others, and the authority may establish such covenants and restrictions regarding the issuance of additional bonds payable from net revenues of the same facilities, the subsequent amendment of the bond resolutions or indenture, the remedies and priorities of the bondholders in the event of default and, without limitation, all such other matters pertinent to the security of the bonds, as the authority may determine to be necessary for the marketing of the bonds to the best advantage; to sell, convey, and exchange any real or personal property owned or held by it in such manner and on such terms as it may see fit, save that no real property owned by the authority shall be so sold, exchanged, or the title thereto transferred without the unanimous approval of the members of the port authority in attendance when such a sale, conveyance, exchange or transfer of real property is authorized, provided that no such sale, conveyance, exchange or transfer of real property shall be considered at any meeting unless all commissioners have been given at least ten days written notice that such a sale, conveyance, exchange or transfer will be voted upon at a special or regular meeting, which notice shall contain a complete description of the affected real estate, and provided further that such authorization shall not be given unless there is at least a quorum present. The port authority is hereby empowered to acquire by condemnation any property, corporeal or incorporeal, within the port district which may be needed by it for public use; and the fact that the property so needed has been acquired by the owner under the power of eminent domain or is already devoted to a public use shall not prevent its acquisition by the port authority by the exercise of the right of eminent domain hereby conferred. No property now or hereafter vested in or held by the state of Minnesota, or any city, county, village, school district, town, or other municipality, shall be so taken or acquired by the port authority without the consent of the state, municipality, or governmental subdivision. The necessity of the taking of any property by the port authority shall be determined by resolution duly adopted by the commissioners, which shall describe the property as nearly as may be and state the use and purpose to which it is to be devoted. The acquisition of such property shall be thereafter accomplished by proceedings by law, as in taking land for public use by right of eminent domain under the laws of the state.

In addition to the power and authority heretofore conferred upon the port authority, the port authority, in its own name, shall have full power and authority to acquire and thereafter operate and maintain any existing vehicular toll bridge across any waters which form a common boundary between any city of the first class in the state and any other city either within or without the state and to reconstruct, improve, and repair such existing bridge; and to construct, maintain, and operate an additional vehicular toll bridge and approaches across these waters at a point suitable to the interests of navigation, and to reconstruct, repair, and improve the same; and to construct, maintain, and operate a tunnel under these waters and to reconstruct, repair, and improve the same; and to issue and sell the negotiable revenue bonds of the port authority for such purposes. Such bonds shall be authorized by resolutions as the port authority may determine from time to time, such resolutions to contain such provisions with respect to the form thereof and maturity, interest rate, sinking fund, redemption, and refunding as are customary and usual; and such bonds shall be issued under a trust indenture from the port authority to a corporate trustee, which indenture shall contain the usual and customary provisions with respect to the issuance of bonds, the application of the revenues of such bridge or tunnel for the creation of a sinking fund to provide for the payment of such bonds and interest thereon, and for the holding of the proceeds of the bonds in a special trust for the purpose of acquiring or constructing such bridge or tunnel, and for the pledge and assignment by the port authority to the trustee under such trust indenture of the revenues of such bridge or tunnel over and above the cost of operation and maintenance thereof as security for the payment of the principal of and interest on such bonds. The port authority shall establish, maintain, and collect tolls for transit over such bridge or through such tunnel acquired or constructed hereunder sufficient at all times to pay the cost of the operation and maintenance thereof and to pay the principal of and interest on the bonds issued hereunder; and such bonds and the coupons evidencing interest thereon shall constitute an irrevocable contract between the holders thereof and the port authority that such tolls shall always be sufficient therefor. No bonds issued hereunder shall bear interest at a rate exceeding eight percent per annum and all such bonds so issued hereunder shall be sold for not less than par and accrued interest to the date of delivery and payment and may be sold at private sale without prior publication of notice thereof. All such bonds issued hereunder shall never constitute an indebtedness of any such city of the first class chargeable to its debt limit or payable from ad valorem taxes, but such bonds shall be payable solely and only from the toll revenues earned by such bridge or tunnel pledged to the payment thereof.

When the port authority determines to acquire any of these existing bridges, or to construct the additional bridge or tunnel, the port authority shall have all rights and powers to enter upon lands and to acquire, condemn, occupy, possess, and use such real estate and other property as may be needed for the location, construction, operation, and maintenance of such bridge or tunnel and approaches thereto as are possessed by railroad corporations for railroad purposes, or by bridge corporations for bridge purposes in the state in which such real estate or other property is situated, upon making just compensation therefor to be ascertained and paid according to the laws of the state in which such property may be located and the proceedings therefor shall be the same as in condemnation or expropriation of property for public purposes in such state.

The port authority shall also have full right and power to cause to be made a survey or investigation relating to the proper uses, operations, improvement, and development of the port district, the stimulation of employment by reason thereof, and the benefit to the city and county in which such district lies and to the state of Minnesota. The port authority may also cause to be prepared a plan for future construction, development, and improvement of the port, which plan may be integrated into any existing or future city plans of any city in the port district. Upon completion of the plan, and after public hearing, such port authority may adopt the same as its official plan for the port district. Thereafter such plan may be extended, modified, or amended after hearing. Upon the adoption of any such plan, all improvements made by such port authority shall conform thereto.

Any seaway port authority may also operate its port terminal facilities constructed on their premises as terminal operators and as such, may contract with a warehouse operator or operators performing other terminal services on an agency basis. They may enter into such a contract which may provide that the agent will be paid a compensation on a monthly basis to operate the facilities and that said



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agent may hire the necessary personnel to carry all the functions assumed in said contract, and that any and all employees engaged by said agent shall be considered employees of such agent and not of the port authority, and he shall be responsible for the payment of their compensation and in compliance with all local ordinances, state or federal laws in regard to employees. Such seaway port authority may also contract with any other agent or agents for the performing of any and all functions that the port authority has power by law to execute in a like manner. In contracting with so-called managing agent, but in remaining the terminal operator, the seaway port authority may contract to retain power over the setting of all rates for any services to be performed in any terminal facility owned, leased, or operated by said seaway port authority.

[1929 c 61 s 9; 1941 c 52 s 1; 1955 c 685 s 4; 1959 c 699 s 2; 1967 c 469 s 1; 1969 c 932 s 1] (1372-7½h)

NOTE: Laws 1959, Chapter 699, amended sections 458.16, 458.17, and 458.19. Section 4 thereof reads: "The amendments herein contained relating to the affairs of seaway port authorities apply to the seaway port authority of Duluth. As to said seaway port authority this law shall become effective upon approval by resolution duly adopted by the favorable vote of a majority of the commissioners of the authority. As to any other seaway port authorities to which this law may apply in the future, it shall become effective upon like approval by resolution of the commissioners of that port authority."

**458.18 EMPLOYMENT OF PERSONNEL; CONTRACTS.** The port authority shall have power and authority, in its own behalf, to employ such engineering, legal, technical, clerical, stenographic, accounting, and other assistance as it may deem advisable; any employee of any port authority created and existing under and pursuant to the provisions of this act shall be considered as an "employee" as the term is used and defined in Laws of Minnesota 1955, Chapter 665, and shall by appropriate action of said port authority be entitled to the benefits provided for in this statute; to enter into contracts for the erection, repair, maintenance or operation of docks, warehouses, terminals, elevators, or other structures upon or in connection with property owned or controlled by it; to contract or make other arrangements with the United States government, or any department thereof, with persons, public corporations, the state of Minnesota or any of its political subdivisions, commissions, or agencies, for separate or joint action, with reference to any matter related to the exercise of the powers or the fulfillment of the duties of such port authority; to contract for the purchase and sale of real and personal property; provided that no such obligation or expense shall be incurred save upon such terms and at such times when existing appropriations, together with the reasonable expected revenue of the port authority from other sources, shall be sufficient to enable the same to be discharged when due; and neither the state nor any municipal subdivision thereof shall be liable on any such obligation.

[1929 c 61 s 10; 1955 c 685 s 5; 1959 c 447 s 3] (1372-7½i)

**458.19 APPLICATION.** Until and unless otherwise provided by law, all laws now or hereafter vesting jurisdiction or control in the department of public service of the state of Minnesota, the interstate commerce commission or war department of the United States, or similar regulatory bodies shall apply to any transportation, terminal, or other facility owned, operated, leased, or controlled by the port authority with the same force and effect as if the transportation, terminal, or other facility was so owned, operated, leased, or controlled by a private corporation; provided, however, that the department of public service of the state of Minnesota shall have no control over any seaway port authority operating under this chapter for the following matters:

- (1) Charges for stevedoring of vessels;
- (2) Receiving and delivering cargo for vessels;
- (3) Car and truck unloading and loading cargo for vessels;
- (4) Watching cargo for vessels;
- (5) Charges for vessels for use of facilities;
- (6) Charges against railroad, trucking companies and/or shippers for their use of port facilities;
- (7) Charges for delivering cargo to and from warehouses on seaway port authority property and warehouse charges on the same, provided all of these items are in connection with handling of interstate commerce.

The port authority shall have authority either alone or jointly with any similar body having jurisdiction of any part of such port to petition any interstate commerce

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commission, department of public service, public service commission, public utilities commission, or any like body or any other federal, municipal, state, or local authority, administrative, executive, judicial, or legislative, having jurisdiction in the premises, for any relief, rates, change, regulation, or action which in the opinion of the port authority may be designed to improve or better the handling of commerce in and through the port or improve terminal and transportation facilities therein, and may intervene before any such body in any proceeding affecting the commerce of the port and in any such matters shall be considered along with other interested persons one of the official representatives of the port district.

[1929 c 61 s 11; 1959 c 699 s 3; 1971 c 25 s 67] (1372-7½j)

NOTE: Laws 1959, Chapter 699, amended sections 458.16, 458.17, and 458.19. Section 4 thereof reads: "The amendments herein contained relating to the affairs of seaway port authorities apply to the seaway port authority of Duluth. As to said seaway port authority this law shall become effective upon approval by resolution duly adopted by the favorable vote of a majority of the commissioners of the authority. As to any other seaway port authorities to which this law may apply in the future, it shall become effective upon like approval by resolution of the commissioners of that port authority."

**458.191 INDUSTRIAL DEVELOPMENT DISTRICTS.** Subdivision 1. The port authority of any port district created and existing under section 458.10, subdivisions 1 or 2, may, after a public hearing thereon of which at least ten days notice shall be published in a daily newspaper of general circulation in the port district, create industrial development districts within the port district and define the boundaries thereof if it finds that the creation of such development district or districts is proper and desirable in establishing and developing a system of harbor and river improvements and industrial developments in each port district.

Subd. 2. It is hereby declared to be the public policy of the legislature of the state of Minnesota that it is in the public interest to empower the port authority to employ the power of eminent domain, and for such port authority to advance and expend public moneys for the purposes contained in Laws 1957, Chapter 812, and to provide for means by which marginal area properties may be developed or redeveloped in accordance with the legislative policies hereinafter stated.

(1) A sound development of the economic security of the peoples of the city of the first class in which is situated such port authority is dependent upon proper development and redevelopment of marginal properties, and the general welfare of the inhabitants of the port districts in which they exist require the remedying of such injurious conditions to which marginal properties are now subject; and

(2) The development and redevelopment of such marginal area properties cannot be accomplished by private enterprise alone without public participation and assistance in the acquisition of land and planning and in the financing of land assembly in the work of clearance, development and redevelopment, and in the making of improvements necessary therefor.

(3) To protect and promote sound development and redevelopment of marginal lands as hereinafter defined, and the general welfare of the inhabitants of the port districts in which they exist, to remedying such injurious conditions through the employment of all appropriate means.

(4) That whenever the development or redevelopment of such marginal lands cannot be accomplished by private enterprise alone, without public participation and assistance in the acquisition of land and planning and in financing of land assembly in the work of clearance, development and redevelopment, and in the making of improvements necessary therefor, it is in the public interest to employ the power of eminent domain, to advance and expend public moneys for those purposes, and to provide for means by which such marginal lands may be developed or redeveloped.

(5) That the development or redevelopment of such marginal lands and the provision of appropriate continuing land use constitute public uses and purposes for which public moneys may be advanced or expended and private property acquired, and are governmental functions and are of state concern in the interest of health, safety and welfare of the peoples of the state of Minnesota and of the communities in which such areas exist.

(6) That the necessity in the public interest for the provision of Laws 1957, Chapter 812, is declared to be a matter of legislative determination.

Subd. 3. It is further found and declared that:

(1) The existence of such marginal lands characterized by any or all of such

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conditions constitutes a serious and growing menace which is condemned as injurious and inimical to the public health, safety, and welfare of the people of the communities in which they exist and of the people of the state.

(2) Such marginal lands present difficulties and handicaps which are beyond remedy and control solely by regulatory processes in the exercise of the police power.

(3) They contribute substantially and increasingly to the problems of, and necessitate excessive and disproportionate expenditures for, crime prevention, correction, prosecution and punishment, the treatment of juvenile delinquency, the preservation of the public health and safety, and the maintaining of adequate police, fire and accident protection and other public services and facilities.

(4) This menace is becoming increasingly direct and substantial in its significance and effect.

(5) The benefits which will result from the remedying of such conditions and the redevelopment of such marginal lands will accrue to all the inhabitants and property owners of the communities in which they exist.

(6) Such conditions of marginal lands tend to further obsolescence, deterioration, and disuse because of the lack of incentive to the individual landowner and his inability to improve, modernize, or rehabilitate his property while the condition of the neighboring properties remains unchanged.

(7) As a consequence the process of deterioration of such marginal lands frequently cannot be halted or corrected except by redeveloping the entire area, or substantial portions of it.

(8) Such conditions of marginal lands are chiefly found in areas subdivided into small parcels, held in divided and widely scattered ownerships, frequently under defective titles, and in many such instances the private assembly of the land areas for redevelopment is so difficult and costly that it is uneconomic and as a practical matter impossible for owners to undertake because of lack of the legal power and excessive costs.

(9) The remedying of such conditions may require the public acquisition at fair prices of adequate areas, the redevelopment of the areas suffering from such conditions under proper supervision, with appropriate planning and continuing land use.

(10) The development or redevelopment of land, or both, acquired under the authority of Laws 1957, Chapter 812, constitute a public use and are governmental functions, and that the sale or leasing of such land after the same has been developed or redeveloped is merely incidental to the accomplishment of the real or fundamental purpose, that is, to remove the condition which caused said property to be marginal property as in Laws 1957, Chapter 812, defined.

Subd. 4. "Marginal lands" is defined and characterized by any one or more of the following described conditions:

(1) An economic dislocation, deterioration, or disuse resulting from faulty planning.

(2) The subdividing and sale of lots of irregular form and shape and inadequate size for proper usefulness and development.

(3) The laying out of lots in disregard of the contours and other physical characteristics of the ground and surrounding conditions.

(4) The existence of inadequate streets, open spaces, and inadequate utilities.

(5) The existence of lots or other areas which are subject to being submerged by water.

(6) By a prevalence of depreciated values, impaired investments, and social and economic maladjustment to such an extent that the capacity to pay taxes is reduced and tax receipts are inadequate for the cost of public services rendered.

(7) In some parts of marginal lands, a growing or total lack of proper utilization of areas, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to the public health, safety and welfare.

(8) In other parts of marginal lands, a loss of population and reduction of proper utilization of the area, resulting in its further deterioration and added costs to the taxpayer for the creation of new public facilities and services elsewhere.

(9) Property of an assessed valuation of insufficient amount to permit the estab-

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ishment of a local improvement district for the construction and installation of streets, walks, sewers, water and other utilities.

(10) Lands within an industrial area which are not devoted to industrial uses but which are necessary to industrial development within the industrial area.

(11) Lands acquired by the state of Minnesota by forfeiture for non-payment of taxes.

[1957 c 812 s 3; 1969 c 731 s 3]

**458.192 ADDITIONAL POWERS.** Subdivision 1. In addition to all powers conferred on such port authority under Minnesota Statutes, Sections 458.09 to 458.19, such port authority, to accomplish the purposes set forth in subdivision 1 of section 458.191, shall have such additional powers as hereinafter described in subdivisions 2 through 10 of this section.

Subd. 2. It may acquire by lease, purchase, gift, devise, or condemnation proceedings all necessary right, title and interest in and to lands and buildings required for the purposes contemplated in the creation of such industrial development districts and pay therefor out of funds obtained by it as hereinafter provided, and hold and dispose of the same subject to the limitations and conditions herein prescribed. Title to any such property acquired by condemnation or purchase shall be in fee simple, absolute, but any such real or personal property or interest therein otherwise acquired may be so acquired or accepted subject to any condition which may be imposed thereon by the grantor or donor and agreed to by the port authority not inconsistent with the proper use of such property for the purposes herein provided. Any properties, real or personal, acquired, owned, leased, controlled, used or occupied by the port authority for any of the purposes of this section are declared to be acquired, owned, leased, controlled, used and occupied for public governmental and municipal purposes and shall be exempt from taxation by the state or any of its political subdivisions. Such exemption from taxation applies only when the port authority holds property for its own purpose. When property is sold, this exemption from taxation shall not apply, and the property shall be returned for taxation to the tax rolls. Such port authority shall have the power to execute options for purchase, sale or lease of property.

Subd. 3. It may exercise the right of eminent domain in the manner provided by Minnesota Statutes, Chapter 117, or under the provisions of the home rule charter of the city in which said port authority is located for the purpose of acquiring any property which it is authorized to acquire by condemnation. The fact that the property so needed has been acquired by the owner under eminent domain or is already devoted to a public use shall not prevent its acquisition by such port authority by the exercise of the right of eminent domain, provided that the acquisition of such sites and property has the approval and ratification of the governing body of the city in which said port authority is located. The port authority may take possession of any such property so to be acquired at any time after the filing of the petition describing the same in condemnation proceedings. It shall not be precluded from abandoning the condemnation of any such property in any case where possession thereof has not been taken.

Subd. 3a. The seaway port authority of Duluth, if it deems necessary may, in its discretion, after having filed in court an application to assess compensation for the property to be appropriated pursuant to the eminent domain proceedings, forthwith pay into court a sum of money to secure compensation to the owner of the appropriated property, which amount shall be fixed by the court in a sum not less than the adjusted market value of the property appropriated as fixed by the assessor and as finally equalized. The title to the property appropriated shall pass to the seaway port authority of Duluth upon the payment of that sum of money into court, and thereupon the port authority shall have the right after 60 days from passage of title to enter upon the property appropriated and demolish any structure thereon or therein and proceed with the construction of the project proposed by it. It shall then proceed with the prosecution of its suit to assess compensation with due diligence. The deposit shall be applied, so far as may be necessary for that purpose, to the payment of any award that may be made, with interest thereon, and the residue, if any, shall be returned to the seaway port authority of Duluth. No proceeding under this subdivision shall commence after June 30, 1972.

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Subd. 4. It may contract and be contracted with in any matter connected with the purpose of industrial development within the powers of the port authority herein given.

Subd. 5. It may acquire rights or easements for terms of years or perpetually to accomplish the purpose of such industrial districts' development.

Subd. 6. It may purchase all supplies and materials necessary in carrying out the purposes of this section.

Subd. 7. It may accept from the United States of America or state of Minnesota or any of their agencies or any local subdivision of government under the state of Minnesota, land, moneys or other assistance, whether by gift, loan or otherwise, for the purpose of carrying out the purposes of Laws 1957, Chapter 812, and of acquiring and developing industrial development districts and facilities as contemplated herein.

Subd. 8. Such port authority, in connection with the acquisition of land for and the development of industrial development districts, may exercise all the powers of governmental subdivisions within the meaning of Minnesota Statutes, Section 282.01, and pursuant thereto shall have all the powers similar to the city of the first class in which it is located to acquire, by any means provided by law, lands forfeited for non-payment of taxes to the state of Minnesota.

Subd. 9. It is hereby declared that the purposes of Laws 1957, Chapter 812, in the program herein set out for the creation and development of industrial development districts is in the public interest, and to implement the program, it is essential that tax-forfeited lands, the title to which has vested in the state of Minnesota, be conveyed to such port authority for a nominal consideration of \$1 per tract for use and subsequent resale as found expedient by such port authority in furtherance of the purpose of Laws 1957, Chapter 812.

It is declared that any proposed resale of industrial development lands to private parties, or the use in any manner thereof by such port authority in the way of industrial development, requires that such port authority acquire title to all lands within the area of the industrial development district free and clear of any possibility of reverter to or right of re-entry by the state of Minnesota, for the reasons or under the circumstances set forth in Minnesota Statutes, Section 282.01, Subdivision 1.

The commissioner of taxation of the state of Minnesota is authorized and shall convey to any such port authority parcels of tax-forfeited lands in such industrial development district, petition for the conveyance of which has been made to such commissioner under the provisions of Laws 1957, Chapter 812, upon payment by such port authority of the nominal consideration of \$1 for each tract of land so acquired.

Any such deed of conveyance shall be upon a form approved by the attorney general and shall convey to any such port authority an absolute title to such tract or tracts of land, subject only to the reservation of minerals and mineral rights, pursuant to Minnesota Statutes, Section 282.12; such deed of conveyance shall not contain any condition or other provision with reference to the use to which the premises shall be put, and by such conveyance the state of Minnesota shall be divested of any and all further right, title, claim or interest in and to such tracts, subject, however, to the mineral reservation hereinabove referred to.

Subd. 10. Such port authority shall have the authority to sell or lease the land held by it for river, harbor or industrial development in industrial development districts. It may, if proper in the public interest, construct suitable buildings or structures upon any land owned by it and, if deemed necessary for the purposes to be served by such buildings and structures, it may install or furnish capital equipment to be located permanently or used exclusively on such lands or in such buildings all for the purpose of leasing or selling the same to private persons in the further industrial development of such industrial district. It may exercise its authority, herein given, to the acquisition, development, sale or lease of single or multiple tracts of land to be developed, irrespective of size, having in mind that the purpose of Laws 1957, Chapter 812, is the industrial development of the district.

[1957 c 812 s 4; 1967 c 535 s 1; 1971 c 601 s 1]

**458.193 BONDS, ISSUANCE.** Subdivision 1. In anticipation of the receipt by the port authority of payments, appropriations, rents and profits and of income

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from any other source and for the purpose of securing funds as needed by such port authority for the payment of the cost of property acquired and for other purposes as herein authorized, the port authority is hereby authorized to issue bonds in such principal amount as shall be authorized by the governing body of the city of the first class in which such port authority is situated. Such bonds shall be in such amount and form and bear interest at such rate as the said governing body of such city of the first class shall prescribe and shall be sold by such port authority to the highest bidder therefor after notice of the time and the place for the receiving of the bids has been published once at least two weeks prior to the date of receiving bids. Except as otherwise provided in Laws 1957, Chapter 812, the issuance of the bonds herein authorized by such port authority shall be governed by provisions of Minnesota Statutes, Chapter 475, and such port authority when issuing such bonds shall be deemed to be embraced within the meaning of the term "municipal corporation" as said term is used in Minnesota Statutes, Chapter 475. Notwithstanding any provision to the contrary included within the charter of any such city or any general or special law of the state of Minnesota, such bonds may be issued and sold without submission of the question thereof to the electors of such city of the first class, provided, however, that the ordinance of the governing body of such city authorizing issuance of such bonds by such port authority shall be subject to any provisions in the charter of such city pertaining to the procedure for referendum of ordinances enacted by such governing body. Any such bonds issued by any such port authority of any such city of the first class shall not be included in computing the net indebtedness of such city of the first class under any applicable law or charter provision. The receipt and expenditure of any moneys received hereunder shall not be included within the definition of any limitation imposed on per capita taxing or spending in the charter of any such city of the first class, and such exemption from such limitation shall apply to such port authority. The taxing powers granted to cities of the first class in connection with Laws 1957, Chapter 812, in any manner shall be in addition to all taxing powers now possessed by them.

Subd. 2. Such bonds shall be of such date, denominations, place of payment, form and details as may be determined by the port authority with the consent of the governing body of such city. The bonds shall mature serially, the first installment to fall due in not more than three years and the last in not more than 30 years from the date of issuance.

Subd. 3. The bonds shall be signed by the chairman of the port authority, attested by the secretary and countersigned by the treasurer, said officers to be elected annually by the members of the port authority, and the interest coupons shall be attached thereto and be executed and authenticated by the printed, engrossed or lithographed facsimile signature of chairman and secretary. Such bonds shall not impose any personal liability upon any member of the port authority.

Subd. 4. The bonds shall be secured by the pledge of the full faith, credit and resources of the city of the first class in which said port authority has been created. Said port authority is hereby authorized to pledge such full faith, credit and resources of said city only upon the specific authorization of the governing body of said city that said port authority may so do. The propriety of the issuance of bonds in any specific case and the amount thereof shall be a matter of decision for such governing body in the first instance. The specific consent to the pledge of such full faith, credit and resources of the city of the first class shall be conclusively presumed from formal action of the governing body of such city, taken by ordinance. Such bonds shall be paid, both in the principal amount thereof and the interest thereon, by the port authority from tax levies as hereinafter provided for the purpose of repayment, the earnings and all income received by such port authority from whatever source it may be derived.

Subd. 5. Such port authority, upon issuing any bonds under the provisions of this section, shall, before the issuance thereof, levy for each year, until the principal and interest are paid in full, a direct annual tax on all the taxable property in the city in which such authority has been created in an amount not less than five percent in excess of the sum required to pay the principal and interest thereof when and as such principal and interest mature. After any such bonds have been delivered to the purchasers, such tax shall be irrevocable until all such indebtedness is paid, and after the issuance of such bonds no further action by the port authority shall

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be necessary to authorize the extensions, assessments and collection of such tax. The secretary of the authority shall forthwith furnish a certified copy of such levy to the county auditor of the county in which the authority and city are located, together with full information regarding the bonds for which the tax is levied and such county auditor shall extend and assess the tax so levied, and shall do so annually until the principal and interest have been paid in full. Any surplus resulting from the excess levy herein provided for shall be transferred to a sinking fund after the principal and interest for which the tax was levied and collected has been paid; provided that the port authority may, on or before October 15 in any year, by appropriate action cause its secretary to certify to the county auditor the amount on hand and available in its own treasury from earnings or other income including the amount in the sinking fund which it will use to pay principal or interest or both on each specified issue of its bonds and the county auditor shall reduce the levy for that year herein provided for by that amount. The amount of funds so certified shall be set aside by the port authority and be used for no other purpose than for the payment of principal and interest on the bonds. All taxes hereunder shall be collected and remitted to the port authority by the county treasurer in accordance with the provisions of law governing the collection of other taxes and shall be used solely for the payment of the bonds when due.

Subd. 6. Bonds legally issued pursuant to Laws 1957, Chapter 812, shall be deemed authorized as securities within the provisions of Minnesota Statutes, Section 50.14, and shall be proper for the investment therein by any savings bank or trust company, insurance company, or sinking funds held by any public or municipal corporation, and may be pledged by any bank or trust company as security for the deposit of public moneys therein in lieu of surety bonds. Such bonds shall be deemed and treated as instrumentalities of a public governmental agency and, as such, exempt from taxation.

[1957 c 812 s 5]

**458.194 REVENUE BONDS, ISSUANCE.** Subdivision 1. The authority is hereby authorized and empowered to provide by resolution for the issuance at one time, or in series from time to time, of revenue bonds of the authority for the purpose of providing funds for paying the cost of the acquisition of land necessary for the operations of the port authority, for the purchase, construction, installation or furnishing of capital equipment and operation of any port or industrial facilities, including but not limited to docks, wharves, warehouses, piers, factories, plants, workshops, office buildings and any other port terminal, transportation, or industrial facility within its jurisdiction, or for paying the cost of any extensions, enlargements or improvements of any project under control of the authority. Revenue bonds issued by the authority may include such amount as deemed necessary to establish an initial reserve for payment of principal and interest of the bonds. Such bonds, and any interest coupons to be attached thereto, shall be executed in such manner as may be determined by resolution of the port authority.

Subd. 2. The bonds of each series issued by the port authority under the provisions of this section shall bear interest at a rate or rates not exceeding eight percent per annum payable semiannually and shall mature at such time or times within 30 years from the date of issuance, and shall be in such form, whether payable to bearer, registerable as to principal, or fully registerable, as may be determined by the port authority. The provisions of section 458.193, subdivision 6 shall apply to all bonds issued hereunder, and such bonds and any coupons appurtenant thereto, when payable to bearer, shall be negotiable instruments.

Subd. 3. The sale of such revenue bonds issued by the port authority shall be at public sale pursuant to section 475.60, or in accordance with the procedures set forth in sections 474.01 to 474.13. Such bonds may be sold in the manner and for the price that the port authority determines to be for the best interest of the port authority, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than eight percent per annum, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity. Such bonds may be made callable, and if so issued may be refunded.

Subd. 4. The port authority shall have the power and authority by resolution to enter into all contracts, agreements and covenants with the holders of its revenue

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bonds, or with any trustee for such bondholders, which are determined by it to be necessary or desirable for the purposes of carrying out the powers and authority given to the port authority under this section and assuring the prompt payment and marketability of its revenue bonds.

Subd. 5. In the issuance of the revenue bonds herein provided, the port authority shall have the power and the authority to secure the payment of the principal and the interest on said revenue bonds by a pledge of and lien upon the revenues of such port authority derived from the facility and to be acquired, constructed, or improved by the use of the proceeds of the bonds, and from any other facilities designated in the resolutions authorizing such bonds, and the covenant of the port authority to impose, maintain, and collect sufficient rentals, rates and charges, for all use and occupancy of such facilities and for all services furnished thereby, to produce adequate revenues to pay all expenses incurred by the port authority which under accepted accounting principles are normal, reasonable, and current costs of the operation and maintenance of such facilities, and to produce and segregate in a special fund net revenues sufficient to meet the interest and principal requirements of such bonds, and to accumulate and maintain such additional reserves as may be established in said resolutions. No revenues so pledged shall be used or pledged for any other purposes of the port authority or for the payment of any other bonds, whether issued under this section or under section 458.193, except as specifically authorized in such resolutions.

Subd. 6. Revenue bonds issued under the provisions of this section shall not be deemed to constitute a debt of the city of the first class in which such authority is located and for which it has been created, nor a pledge of the full faith and credit of any such city of the first class, but such bonds shall be payable solely from the funds herein provided therefor from revenues of the projects. All such revenue bonds shall contain on the face thereof a statement to the effect that neither the port authority nor the city of the first class in which the port authority has been created shall be obligated to pay the same or the interest thereon except from revenues, and that neither the faith and credit nor the taxing power of such city of the first class is pledged to the payment of the principal of or the interest on such bonds.

Subd. 7. [Repealed, 1961 c 497 s 5]

[1957 c 812 s 6; 1959 c 447 s 4; 1961 c 497 s 1-3; 1967 c 535 s 2; 1969 c 932 s 2, 3]

**458.195 ADDITIONAL POWERS.** Subdivision 1. A port authority shall have the further power and authority to cooperate with or act as agent for the federal government, the state or any state public body or any agency or instrumentality of the foregoing, to carry out the purposes of Laws 1957, Chapter 812, or of any other related federal, state or local legislation operative within the area of river, harbor and industrial development district improvement.

Subd. 2. Such port authority shall have the authority to carry out studies and analyses of the industrial development needs within its area of operation, and of meeting those needs; to study the desirable patterns for industrial land use and community growth and other factors affecting the development of local industrial development within the district and make the result of these studies available to the public and industry in general; to engage in research and disseminate information on river, harbor and industrial development within the port district.

Subd. 3. Each commissioner, including the chairman, shall be paid for attending meetings of the port authority, regular and special, \$25 per meeting, the aggregate of such payments to any one commissioner for any one year not to exceed \$600.

Subd. 4. Such port authority shall have the power to hire and employ all personnel necessary to carry out its program and the responsibilities placed upon it by Laws 1957, Chapter 812, including a chief engineer and a general counsel to serve the engineering and legal needs of such authority, the latter to be the chief legal advisor to such authority.

Subd. 5. Such port authority shall have the power to accept conveyances of land from all other public agencies, commissions or other units of government, including the Housing and Redevelopment Authority of the City of Saint Paul and the Metropolitan Airports Commission of the State of Minnesota, if such land can be properly utilized by such port authority in any river, harbor and industrial development district, to carry out the purposes of Laws 1957, Chapter 812.



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Subd. 6. It shall have the power in carrying out the provisions for which said industrial development district has been created, to develop and improve the lands within such industrial development district to make the same suitable and available for industrial uses and purposes; to dredge, bulkhead, fill, grade and protect such property; to do any and all things necessary after the acquisition of such property to put the said property in such condition as is necessary and expedient to make it suitable and attractive as an industrial tract for industrial development thereon; to execute leases of such lands or property or any part thereof; to establish local improvement districts within such industrial development district which may, but need not be, coextensive with the boundaries thereof and generally to exercise, with respect to and within such industrial development districts all the powers now or hereafter conferred by law upon port authorities of cities of the first class.

Subd. 7. A port authority shall have the further power, after the authorization of bonds pursuant to section 458.193 or section 458.194, to provide funds immediately required for the purpose and not exceeding the amount of such bonds, by effecting temporary loans upon such terms as it shall by resolution determine, evidenced by negotiable notes due in not exceeding 12 months from the date thereof, payable to the order of the lender or to bearer, to be repaid with interest from the proceeds of such bonds when issued and delivered to the purchaser thereof. No such loan shall be obtained from any commissioner of the port authority or from any corporation, association, or other institution of which a port authority commissioner is a stockholder or officer.

[1957 c 812 s 7; 1961 c 497 s 4]

**458.196 SALE OF PROPERTY.** Subdivision 1. When a port authority deems it for the best interests of the district and the people thereof and in furtherance of its general plan of port improvement, or industrial development, or both, it may sell and convey any property or part thereof owned by it within a port or industrial district. This section shall not be limited by other laws pertaining to powers of port authorities.

Subd. 2. The port authority shall give notice of the proposed sale by publication in a newspaper published and of general circulation in the county and port district at least ten days before the date fixed for the hearing thereon. The notice shall describe the property to be sold and state that the terms and conditions of the sale are available for public inspection at the office of the port authority and that at the time and place specified in the notice the authority will meet to hear and determine the advisability of the sale. The hearing shall be held not more than 20 days from the publication of notice. At the hearing the authority shall hear the reasons of any taxpayer in the port district for or against the sale.

Subd. 3. Within 30 days after the hearing, the authority shall make its findings and determination on the advisability of making the sale and enter its determination on its records. Any taxpayer may appeal the determination of the authority by filing a notice of appeal with the district court of the county in which the district is located, and serving the same upon the secretary of the port authority, within 20 days of the entry of the determination but no appeal shall be allowed except on the grounds that the action of the authority was arbitrary, capricious, or contrary to law.

Subd. 4. The terms and conditions of sale of any property shall include the use which the bidder will be permitted to make of it. The authority may require the purchaser to file security as assurance that the property will be used for that purpose. In determining the sale terms and conditions the port authority may consider the nature of the proposed use and the relation thereof to the improvement of the harbor, the riverfront and the city of the first class and the business and the facilities of the port authority in general. All sales shall be made upon such terms and conditions as the port authority may prescribe. In any case the port authority may place property on the market for sale upon advertisement for bids published in the same manner as and simultaneously with the notice of hearing required in this section, and award the sale in accordance with the bid deemed by it to be most favorable having regard to the price and the intended use specified, but the port authority shall have the power to sell said properties at private sale at a negotiated price if such sale is deemed in the public interest by the port authority and in furtherance of the aims and purposes of sections 458.09 to 458.1991, after hearing as herein required.

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Subd. 5. The purchaser shall, within one year from the date of the purchase, devote the property to its intended use, or shall commence work on the improvements thereon to devote it to such use, and if he fails to do so, the port authority may cancel the sale and title to the property shall revert to it. Extension of time to comply with such condition may be granted by the port authority on good cause shown by the purchaser. The terms of sale may contain any other provision by the port authority which it deems necessary and proper to protect the public interest. No purchaser shall transfer title to such property within one year without the consent of the port authority.

Subd. 6. All sales made in accordance with the provisions of this section shall have incorporated in the instrument of conveyance of title the conditions of sections 458.09 to 458.1991 relating to the use of the land as a covenant running with the lands. Any violation of such covenant shall result in a right by the authority to declare a breach of the covenant running with the land and seek a judicial decree from the district court declaring a forfeiture and a cancellation of any deed so given.

Subd. 7. No conveyance shall be made until the purchaser shall have submitted to the port authority plans and specifications for the development of the property sold, and said plans and specifications shall be approved in writing. However, nothing herein shall require the preparation of final plans and specifications before the hearing on the sale, unless so directed by the authority.

[1957 c 812 s 8-15; 1963 c 425 s 1]

**458.197 ADVANCES OF MONEY BY PORT AUTHORITY.** Such port authority is hereby granted the power to advance its general fund moneys or credit, or both, without interest, to accomplish the objects and purposes of sections 458.191 to 458.1991, which advances shall be repaid from the sale or lease, or both, of such developed or redeveloped lands, provided, if the money advanced for such development or redevelopment was obtained from the sale of general obligation bonds of the port authority, then such advances shall bear a rate of interest not less than the average annual interest rate on general obligation bonds of the port authority which are outstanding at the time such advances are made. Nothing herein shall prevent the port authority from advancing the money so repaid for the accomplishment of further objects and purposes authorized by such laws, subject to repayment in the same manner. Nothing herein shall affect or impair the obligation of the port authority to use rentals of lands acquired with money so advanced to accumulate and maintain reserves securing the payment of principal and interest on revenue bonds issued to finance port or industrial facilities, when such rentals shall have been pledged for this purpose in accordance with section 458.194. Nothing herein shall require the reimbursement of advances made for the acquisition of lands and the construction of facilities for recreation purposes when authorized by law. Nothing contained in the provisions of Minnesota Statutes 1961, Sections 458.09 through 458.1991, as amended, shall be construed as exempting lands leased from the port authority to a tenant or lessee who is a private person, association, or corporation from responsibility or liability for payment of assessments or taxes levied or assessed against such leased property whenever such lease expressly provides that the tenant or lessee shall be liable for taxes or assessments levied or assessed against such property during the term of such lease or any extension thereof.

[1957 c 812 s 16; 1963 c 564 s 1; 1965 c 792 s 1]

**458.198 DETERMINATION OF PROPERTY AS MARGINAL LANDS.** The determination that property sought by eminent domain proceedings is marginal lands as herein defined is a judicial question, provided that a duly adopted resolution of the authority of the port district that the property sought is marginal lands as the term is herein defined, setting forth the characteristics of the lands sought to be acquired which constitute the marginal lands as herein defined, shall be prima facie evidence that such land is marginal lands as defined in Laws 1957, Chapter 812.

[1957 c 812 s 17]

**458.199 CITY OF FIRST CLASS MAY LEVY TAXES FOR BENEFIT OF PORT AUTHORITY.** To enable such port authority efficiently and in the public interest to carry out the aims and purposes of Laws 1957, Chapter 812, in the creation and development of industrial development districts as herein provided, any such city of the first class in which such port authority has been created and is existing shall have

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the power, upon request of such port authority and in addition to all other powers now possessed thereby, and in addition to and in excess of any limitation upon the amount it is otherwise permitted by law to levy as taxes, to levy taxes for the benefit of and for expenditure by such port authority, not exceeding in any one year an amount equal to 35/100 of one mill upon the dollar of the assessed valuation thereof, upon all the taxable property in such city, excluding money and credits; and any money levied for such purpose shall be paid over by the county treasurer to the treasurer of the port authority for expenditure by it as in its judgment best serves the public interest in the carrying on and the execution of its duties in the creation and development of such industrial development districts. The levy herein provided shall be in addition to that provided for in Minnesota Statutes, Section 458.14.

[1957 c 812 s 18]

**458.1991 POWERS AS TO WORK, LABOR AND SUPPLIES.** The provisions of Section 15 of Chapter 341, Laws of the State of Minnesota for 1933, shall apply to all construction work and every purchase of equipment, supplies, or materials necessary in carrying out the provisions of Laws 1957, Chapter 812. The powers there granted to, and the duties imposed upon the board of trustees of the corporation therein referred to are hereby granted to and imposed upon the members of any such port authority. The port authority is hereby given the power and authority to use the facilities of the purchasing department of any city of the first class in which such port authority is created and existing in connection with construction work and every purchase of equipment, supplies or materials, as such port authority sees fit to use such facilities.

[1957 c 812 s 19]

### PUBLIC WATER HIGHWAYS

**458.20 LAND COVERED BY WATER CONDEMNED FOR SLIPS.** Each city in this state having at any time a population of over 50,000 according to the census then last taken is hereby empowered to acquire by proceedings in condemnation under the right of eminent domain any land covered with water or an easement therein, connecting with or adjacent to public navigable waters other than rivers within or adjacent to such city, wheresoever situated within the limits of such city, which shall be declared by the council by resolution necessary to be taken, damaged, injured, or destroyed for the purpose of laying out, opening, making, deepening, widening, or otherwise improving a slip or other waterway into or connecting with such public navigable waters.

[1905 c 213 s 1] (1500)

**458.21 TO BE HELD FOR PUBLIC WATER HIGHWAY.** When any land covered with water or an easement therein shall be acquired by any city pursuant to the provisions of sections 458.20 to 458.23 such land shall thereafter be held as and for a public water highway for travel by, and the accommodations and passage of boats, steamships, vessels, and water craft of all kinds.

[1905 c 213 s 2] (1501)

**458.22 PROCEEDINGS.** The land covered with water or an easement therein specified in section 458.20 may be acquired by proceedings to be conducted by the council in the manner provided by sections 463.01 to 463.07 enabling municipalities to establish and acquire a building line easement along streets, highways, parks, and parkways, and the council in any such city shall, under sections 458.20 to 458.23, exercise all the powers and perform all the duties imposed in sections 463.01 to 463.07 on the governing body mentioned therein.

[1905 c 213 s 3] (1502)

**458.23 LAND OR EASEMENT TO VEST IN CITY.** Upon the conclusion of the proceedings and the payment of the awards the several tracts of land shall be deemed to be taken and appropriated for the purposes of sections 458.20 to 458.23 and such land or the easement therein for these purposes shall vest absolutely in the city in which the land is situate.

[1905 c 213 s 4] (1503)

### HARBORS, WHARVES

**458.24 LAND FOR HARBORS AND WHARVES CONDEMNED.** Any city of the first class in this state shall have the right, power, and authority to condemn

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lands under the right of eminent domain for harbors, wharves, boat-landings, and such canals and approaches thereto as may be required and the right, power, and authority to levy taxes for the purpose of raising moneys required for the payment of damages and other expenses arising in or out of such condemnation proceedings; such power and authority to condemn land shall be exercised under and pursuant to the terms and provisions of chapter 117. Any such city shall have the right, upon the filing of the award of the commissioners provided for in chapter 117 and upon giving the notice therein required of the filing of such award to enter upon and appropriate the land so condemned without the giving of any bond, but in case of such entry and appropriation, such city shall be bound absolutely to pay all damages awarded either by the commissioners or by the court upon appeal therefrom, together with all costs and expenses adjudged against it therein, within the time specified in chapter 117. In case any such city shall appeal from the award of the commissioners appointed pursuant to such condemnation proceedings such city shall not be required to give or file any appeal bond therein.

[1909 c 327 s 1] (1504)

**458.25 PUBLIC LANDINGS, WHARVES, DOCKS; CONSTRUCTION, MAINTENANCE; RATES; CHARGES.** Any city of the first class in this state is hereby authorized to establish, construct, maintain, and operate public landings, public wharves and docks, and transfer railroad tracks, and loading, unloading, transfer and storage facilities, either within or without such city; to acquire by condemnation or otherwise, all lands, riparian or otherwise and other rights and easements necessary for such purposes and to construct, maintain, and operate all necessary buildings and warehouses for such purpose, to lay and collect reasonable duties or wharfage fees on vessels coming to or using the landings, wharves or docks; to regulate the manner of using other wharves and docks within the city and rates of wharfage to be paid by vessels using the same; to dredge or deepen the harbor or river or any branch or portion thereof; to prescribe and enforce reasonable rules and regulations for the protection and use of its properties whether within or without the city and to impose and enforce adequate penalties for the violation of such rules and regulations. Proceedings in eminent domain for the purposes of sections 458.25 to 458.31 shall be conducted under and pursuant to the provisions of chapter 117, and acts supplemental thereto.

[1921 c 363 s 1] (1504-1)

**458.26 BOND ISSUE.** The council of any such city is hereby authorized and empowered for the purposes herein designated to issue from time to time as needed the negotiable bonds of such city to an amount in the aggregate not exceeding \$150,000, to be made in such denomination and payable at such places and at such times not exceeding 30 years from the date thereof as may be deemed best and to bear interest at a rate not to exceed six percent per annum payable semiannually, with interest coupons attached, payable at such place or places as shall be designated therein, and such governing body is further authorized to negotiate and sell such bonds from time to time to the highest bidder therefor and upon the best terms that can be obtained for the bonds.

No such bonds shall be sold for a less amount than the par value thereof and accrued interest thereon.

[1921 c 363 s 2] (1504-2)

**458.27 BOND ISSUE; LIMITATION ON INDEBTEDNESS NOT APPLICABLE.** The bonds authorized by section 458.26, or any portion thereof, may be issued and sold by any such city notwithstanding any limitation contained in the charter of such city or in any law of this state prescribing or fixing any limit upon the bonded indebtedness of such city, but the full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued under sections 458.25 to 458.31 and for the payment of the current interest thereon, and the governing body of any such city shall each year include in the tax levy a sufficient amount for the payment of such interest as it accrues, and for the accumulation of a sinking fund for the redemption of such bonds at their maturity.

[1921 c 363 s 3] (1504-3)

**458.28 BOND ISSUE, FORM OF BONDS.** All bonds issued under the authority of sections 458.25 to 458.31 shall be sealed with the seal of the city issuing the same and signed by the mayor and attested by the city clerk and countersigned

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by the comptroller or auditor of such city except that the signature to the coupons attached to such bonds, if any, may be lithographed thereon. The sale of such bonds shall be made in such manner and in such proportion of the whole amount authorized by sections 458.25 to 458.31 and at such times as may be determined by the governing body of such city.

[1921 c 363 s 4] (1504-4)

**458.29 BOND ISSUE PROCEEDS TO CONSTITUTE SPECIAL FUND.** The proceeds of any and all bonds issued and sold under the authority of sections 458.25 to 458.31 shall be placed in the treasury of the city issuing the same and constitute a special fund and kept distinct from all other funds of the city and used only for the purposes of carrying out the provisions provided for in section 458.25. The proceeds of these bonds, or any thereof, shall not be used for any other purpose than those therein specified.

[1921 c 363 s 5] (1504-5)

**458.30 CITIES AUTHORIZED.** Sections 458.25 to 458.31 shall only apply to such cities as are or may be governed by a charter adopted pursuant to the Constitution of the State of Minnesota, Article 4, Section 36.

[1921 c 363 s 6] (1504-6)

**458.31 POWERS GRANTED ARE ADDITIONAL.** The powers granted in sections 458.25 to 458.31 are in addition to all existing powers of such cities.

[1921 c 363 s 7] (1504-7)

## LEVEES

**458.32 LEVEES ON NAVIGABLE STREAM WHEN CHANNEL CHANGED.** Any city of the first class in this state shall have the power to acquire and hold in fee simple, by purchase or condemnation, levees not exceeding 200 feet in width on either side of any navigable stream within the limits of such city when the channel thereof is altered or changed by or under the authority of the United States government and may set aside such portions of these levees when acquired as the public needs may require for use for public travel and devote the remainder thereof to such uses as the council of the city shall deem for the best interests of the city, or as required by the United States government.

[1911 c 114 s 1] (1505)

**458.33 ISSUANCE OF BONDS.** Any such city may by ordinance adopted by a two-thirds vote of all members elect of its council issue and sell the bonds of such city of the par value of not exceeding \$500,000 to aid in defraying the expense of acquiring and improving the levees mentioned in section 458.32.

[1911 c 114 s 2] (1506)

**458.34 LIMIT OF DEBT; TAX LEVY.** The bonds authorized by sections 458.32 to 458.35, or any portion thereof, may be issued and sold by any such city notwithstanding any limitation contained in the charter of such city or in any law of this state prescribing or fixing any limit upon the bonded indebtedness of such city, and the full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued under sections 458.32 to 458.35, and for the payment of the current interest thereon, and the council of such city shall each year include in the tax levy a sufficient amount to provide for the payment of such interest as it accrues and for the accumulation of a sinking fund for the redemption of such bonds at their maturity.

[1911 c 114 s 3] (1507)

**458.35 TERM OF BONDS; SALE.** No such bonds shall be issued by any such city for the purposes mentioned in sections 458.32 to 458.34, to run for a longer term than 30 years or bearing a higher rate of interest than four percent per annum, payable semiannually, but the place of payment of the principal and interest thereof and the denominations in which the same are issued shall be such as may be determined by the council and may be in the form of coupon bonds or registered certificates, so-called. All of these bonds shall be signed by the mayor, be attested by the city clerk and countersigned by the city comptroller of the city issuing the same, and shall be sealed with the seal of such city; but the signatures to the coupons attached to such bonds, if any, may be lithographed thereon. None

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of the bonds shall be sold at less than their par value and accrued interest, and then only to the highest responsible bidder therefor.

[1911 c 114 s 4] (1508)

### STONE QUARRIES, DOCKS

**458.36 BONDS, ISSUANCE.** Subdivision 1. The governing body of any city of the first class in this state, is hereby authorized and empowered, for the purposes herein designated, to issue from time to time as needed the negotiable bonds of the city to an amount in the aggregate not exceeding \$500,000, the bonds to be made in such denominations and payable at such places and at such times, not exceeding ten years from the date thereof, as may be deemed best. These bonds to be serial in form, one-tenth to be retired each year after issue and to bear interest at a rate not to exceed six percent per annum payable semiannually, with interest coupons attached, payable at such place or places as shall be designated therein, and such governing body is further authorized to negotiate and sell such bonds from time to time to the highest bidder or bidders therefor and upon the best terms that can be obtained for said bonds.

Subd. 2. No such bonds shall be sold for a less amount than the par value thereof and accrued interest thereon.

Subd. 3. Sections 458.36 to 458.41 shall not supersede the provisions of the charter of any city providing for the referendum of ordinances passed by the governing body to a vote of the electors of the city, nor with the provisions of the charter of any city making the action of the council subject to approval of a board of estimate and taxation, nor with the provisions of any such charter prescribing a particular method of authorization of such bonds.

[1925 c 64 s 1] (1600-1)

**458.37 TAX LEVY FOR PAYMENT OF BONDS.** The full faith and credit of any such city shall at all times be pledged for the payment of any bonds issued under sections 458.36 to 458.41, and for the payment of the current interest thereon, and the governing body of such city shall each year include in the tax levy a sufficient amount for the payment of such interest as it accrues.

No tax levy shall be made if sufficient funds exist in the special fund, called "quarry and dock fund," herein created and described.

[1925 c 64 s 2] (1600-2)

**458.38 ISSUE AND SALE OF BONDS.** All bonds issued under authority of sections 458.36 to 458.41 shall be sealed with the seal of the city issuing the same, signed by the mayor, attested by the city clerk, and countersigned by the comptroller or auditor of such city, except that the signatures to the coupons attached to such bonds, if any, may be lithographed thereon. The sale of such bonds shall be made in such manner and in such proportions of the whole amount authorized by sections 458.36 to 458.41 and at such times as may be determined by the governing body of such city.

[1925 c 64 s 3] (1600-3)

**458.39 USE OF PROCEEDS OF SALE OF BONDS; QUARRY AND DOCK FUND.** The proceeds of any and all bonds issued and sold under authority of sections 458.36 to 458.41 shall be used for the following purposes, and none other: For acquiring by gift, purchase, or condemnation, a site or sites containing rock and to remove and use the same for any municipal purpose; and especially for the construction of public grounds, public docks, harbor terminals, and a breakwater for their protection; and to procure and pay for the necessary equipment of machinery, tracks and labor required in the making of such public improvements and to clear public highways adjacent to such sites from rock obstruction.

Accurate account shall be kept by the department of such city having in charge the operation of the removal and disposal of rock, of the exact quantity of such rock or crushed rock manufactured therefrom, removed and used either by the city upon its highways, or sold to contractors for such use, or for use in making any other improvements, under city authority or franchise.

If the city uses this rock, or crushed rock manufactured therefrom, upon its highways, then that department of the city charged with maintenance of streets shall pay into a special fund of such city to be known as quarry and dock fund, an

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amount of money equivalent to what it would fairly expend for such material if elsewhere obtained in the city.

If such rock is sold to contractors engaged in construction of public improvements in the city, or under franchise from it, then the moneys so derived shall likewise go into the quarry and dock fund. The moneys in the fund shall be used for payment of interest on the bonds and for the retirement and payment of the principal thereof and for no other purpose. Recourse to a tax levy shall in no case be had unless there is a deficiency in the special fund to pay such interest or principal.

If any tax levy shall be necessary to provide for any deficit in this fund, the amount so levied shall be restored to the general fund of the city out of proceeds of such fund as soon as it is sufficient for such purpose.

[1925 c 64 s 4] (1600-4)

**458.40 CHARTER PROVISIONS NOT AFFECTED.** Nothing contained in sections 458.36 to 458.41 shall be construed to repeal or modify the provisions of any charter adopted pursuant to the Constitution of the State of Minnesota, Article 4, Section 36, requiring the question of the issuance of bonds to be submitted to a vote of the electors.

[1925 c 64 s 5] (1600-5)

**458.41 POWERS ADDITIONAL.** The powers granted in sections 458.36 to 458.41 are in addition to all existing powers of such cities.

[1925 c 64 s 6] (1600-6)

458.42-458.45 M.S. 1967 [Local, City of Winona]

## DOCKS

**458.46 CITIES MAY ACQUIRE LAND FOR DOCKS.** The council of any city in this state is hereby authorized and empowered by a two-thirds vote of all the members elect of the council to acquire lands, lands covered with water or buildings, for sites for public docks for passenger purposes by purchase; provided the same can be done upon terms satisfactory to the council.

[1897 c 181 s 1]

**458.47 CONDEMNATION OF LANDS.** The council of any city in this state is hereby authorized and empowered to condemn lands, lands covered with water or buildings for sites for public docks for passenger purposes in the manner provided in sections 458.48 and 458.49. No site for a public dock shall ever be acquired by any city by purchase or condemnation unless a necessity therefor exists, which necessity shall be determined by a two-thirds vote of all the members elect of the council.

[1897 c 181 s 2]

**458.48 COMMISSIONERS OR VIEWERS; TO ASSESS DAMAGES; TO SURVEY PROPERTY AND GIVE HEARING.** The council, upon determining by a two-thirds vote of all its members elect that the necessity for acquiring this property exists, shall appoint three commissioners, no two of whom shall be residents of the same ward of the city, and all of whom shall be disinterested freeholders and qualified voters of the city, to view the premises and assess the damages which may be occasioned by the taking of private property for the purpose of a public dock for passenger purposes. The commissioners shall be notified, as soon as practicable, by the clerk of the city to attend at his office, at a time to be fixed by him, for the purpose of qualifying and entering upon their duties, and the commissioners in attendance shall be authorized to appoint another commissioner or commissioners in place of any absentees or in lieu of any person appointed as commissioner but not qualified by reason of residence or other cause to act as such, selected from some ward of the city not represented in the board of commissioners and possessing the required qualifications. In all cases of vacancy the council shall fill the vacancy.

The commissioners shall be sworn by the city clerk to discharge their duties as commissioners in the matter with impartiality and fidelity and to make due return of their actions and doings to the council.

The commissioners shall with all reasonable speed, with the assistance of the city engineer of the city, cause a survey and plat of the property proposed to be acquired or injuriously affected, to be made and filed with the city clerk, exhibiting

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as far as practicable the land or parcels of property required to be taken, or which may be damaged thereby, and thereupon give notice by publication in the official newspaper of the city for at least ten days and to the owner personally, if within the state and his residence is known, to the effect that such plat has been filed, and that the commissioners will meet at a place and time designated by them, and thence proceed to view the premises and assess the damages for property to be taken, or which may be injuriously affected.

At the time and place according to the notice, the commissioners shall view the premises, and may hear any evidence or proof offered by the parties interested, and adjourn from day to day, if necessary, for the purpose. When their view and hearing shall be concluded they shall determine and assess the amount of damages to be paid to the owner of each parcel of property proposed to be taken or which may be injuriously affected and in so doing shall take into consideration the value of the property proposed to be taken, with such other damage as may be incident thereto, and the advantage which will accrue to the property or any part thereof by reason of the taking of the property or easement sought to be acquired by the city.

If there should be any building standing in whole or in part upon the land to be taken, the commissioners shall in each case determine and assess the amount of damages which should be paid to the owner thereof in case the building, or so much thereof as may be necessary, should be taken and determine and assess the amount of damages to be paid to such owner in case he should elect to remove the building; and the damages in relation to these buildings shall be assessed separately from the damages in relation to the land upon which they are erected.

If the land and buildings belonging to different persons, or if the land be subject to a lease, mortgage, or judgment, or if there be any estate in it less than an estate in fee, the injury or damage done to such person or interests, respectively, may be awarded to them by the commissioners, less the benefit resulting to them, but in no case shall the aggregate damages assessed to the owners, lessee, mortgagee, or other persons having an interest therein, exceed the value of the parcel of property sought to be taken.

The commission, having ascertained and assessed the damages, shall make and file with the city clerk a written report to the council of their action in the premises, embracing a schedule or assessment of the damages in each case, with a description of the land and name of the owners, if known to them, and a statement of the costs of the proceeding.

Upon such report being filed in the office of the city clerk, he shall give at least ten days' notice by publication in the official newspaper of the city to the effect that such assessment has been returned and that the same will be confirmed by the council at a meeting thereof, to be named in the notice, unless objections are made in writing by persons interested in any land required to be taken. Any persons interested in buildings standing in whole or in part upon any land required to be taken shall, on or before the time specified in the notice, notify the council in writing of their election to remove such buildings according to the award of the commissioners. The council, upon the day fixed for the consideration of such report, or at such subsequent meeting to which the same may stand or be referred, shall have power in their discretion to confirm, revise, or annul the assessment, giving due consideration to any objections interposed by parties interested.

The damages assessed shall be paid out of the general fund of the city and paid or tendered or deposited or set apart in the treasury of the city, to and for the use of the parties entitled thereto, within six months from the confirmation of such assessment and report, and the land or property required to be taken for such purpose shall not be appropriated until the damages awarded therefor to the owner thereof shall be paid or tendered to the owner, or his agent, or deposited or set apart for his use. In case the commissioners shall be unable to determine who is the owner of any particular parcel of land taken or injuriously affected, the name of the owner of this parcel may be entered upon their schedule as unknown and the money awarded may be set aside and deposited in the city treasury for the unknown owner of the land taken or injuriously affected. In cases of disputed ownership the name of all the owners or claimants of any parcel may be entered upon the schedule, and the money may be set aside and deposited in their name in the treasury, but need not be paid to them until they shall determine by proper action in court their rights to this money.



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In case any owner of any of these buildings shall elect to move his buildings, he shall so remove them within 30 days from the confirmation of the report or within such further time as the council may allow for the purpose, and shall thereupon be entitled to payment from the city of the amount of damages awarded in such case, in case of removal. When such person shall not have elected to remove such buildings, or shall have neglected (after having elected to remove) to remove the same within the time prescribed, such buildings, or so much thereof as may be necessary, upon payment or depositing the damages awarded for such taking, may be taken and appropriated, sold, or disposed of as the council shall direct, and the same, or the proceeds thereof, shall belong to the city.

When any known owner of lands or tenements affected by any proceeding under sections 458.46 to 458.49 shall be an infant, or labor under legal disability, the judge of the district court of the county, or in his absence the judge of any court of record, may, upon application of the commissioners, or of the city, or such party, or his next friend, appoint a suitable guardian for such party, and all notices required by sections 458.46 to 458.49 shall be served upon such guardian, and all notices required to be served upon the city by an owner may be served by the guardian.

Any person feeling himself aggrieved by such assessment may, by notice in writing served on the mayor of the city, a copy whereof with proof of service shall be filed in the office of the clerk of the district court of the county within 20 days from the time of confirmation of the report or assessment, appeal from such assessment to the district court of the county, when such appeal shall be tried by the court and jury as in ordinary cases; but no pleadings shall be required, and the party appealing shall specify, in the notice of appeal, the grounds of objection to such assessment, and shall not be entitled to have any other objections than those specified considered, and a transcript of such report, certified by the city clerk, or the original thereof, shall be prima facie evidence of the facts therein stated, and that such assessment was regular and just, and made in conformity to law; the judgment of such court therein shall be final. Such appeal shall be entered and brought on for trial and be governed by the same rules in all other respects as appeals from justices of the peace in civil suits.

[1897 c 181 s 3]

**458.49 COUNCIL MAY MAKE IMPROVEMENTS.** The council of any city in this state which shall have acquired sites for public docks for passenger purposes under the provisions of sections 458.46 to 458.49, may improve the same by the erection and maintenance thereon of suitable buildings and by the construction and maintenance thereon of suitable piers, and that such council may by ordinance provide for the regulation, control, and operation of such docks, buildings, and piers, and fix the charges for the use thereof.

[1897 c 181 s 4]

### APPROPRIATION; EXPENDITURES

**458.50 POLICY DECLARATION.** It is hereby determined and declared that the harbors in this state are valuable natural resources; that there are tracts of land in this state located in harbors upon the Great Lakes—St. Lawrence Seaway, which by reason of topography, submersion, erosion, depletion and other causes tend to impede navigation and are valueless for any useful riparian purpose; that the conservation, development, reclamation and protection of these lands so as to constitute them economically valuable is an essential governmental function of the state of Minnesota; that the conservation, development, reclamation and protection of such lands will promote the public welfare of the state of Minnesota by developing to usefulness certain of these lands, and that such processes are essential to assure the inclusion of the state of Minnesota in both domestic and foreign systems of water-borne commerce; that the fortunate position of the state of Minnesota with respect to the Great Lakes—St. Lawrence Seaway will not be fully realized in terms of economic benefit to the citizens of this state unless certain of such lands are conserved, developed, reclaimed, and protected; that these processes of restoring such lands to economic usefulness will provide employment; will reduce unemployment; will tend to increase navigation and commerce in the state of Minnesota; and will benefit in many other ways the people of the state of Minnesota.

[1957 c 849 s 1]

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## 458.51 WATER TRANSPORTATION FACILITIES; PORT AUTHORITIES 4938

**458.51 MINNESOTA SEAWAY PROPERTY CONSERVATION FUND.** There is hereby created a special fund to be known as the Minnesota Seaway Property Conservation Fund. To provide moneys for this fund there are hereby levied upon all taxable property in the state of Minnesota, to be spread by the state auditor upon the tax rolls in the manner in which other state taxes are spread, for the taxable years 1957 to 1971, inclusive, taxes sufficient to produce the sum of \$333,333.34 for each of the years 1958 to 1972, inclusive, together with such additional sums as may be necessary to pay the interest upon the certificates of indebtedness hereinafter authorized. In case of a deficiency in the proceeds of such tax levy for any year the auditor shall levy sufficient additional amounts in succeeding years to compensate therefor until the full amount herein authorized has been raised. The proceeds of such taxes shall be credited to the Minnesota Seaway Property Conservation Fund.

[1957 c 849 s 2]

**458.52 CERTIFICATES OF INDEBTEDNESS, ISSUANCE.** Pending the levy and collection of such taxes, and upon request of the governor, the state auditor shall issue and sell certificates of indebtedness of the state as funds are needed for the purposes of sections 458.50 to 458.59, not exceeding the amount required from time to time to meet the appropriations hereinafter made and not exceeding \$5,000,000 in the aggregate. Such certificates shall be known as Minnesota Seaway Property Conservation Certificates of Indebtedness, and shall be issued and sold at not less than par upon sealed bids after two weeks published notice, unless sold to the state board of investment as hereinafter provided. Such certificates shall be in such form and of such denominations and shall mature at such times as the auditor may determine, not exceeding the time when funds shall be available for the payment thereof from the tax levies authorized by section 458.51. Such certificates shall bear such rate of interest and shall contain such other terms and provisions, not inconsistent herewith, as the auditor may determine. Such certificates shall be signed by the state treasurer and attested by the state auditor under their official seals, and the auditor and treasurer shall keep records thereof. Such certificates shall be a charge upon and a lien against the taxes authorized by section 458.51. The principal and interest of such certificates shall be payable only from the proceeds of such taxes and so much thereof as may be necessary is hereby appropriated for such payments; provided, that such interest as may become due at any time when there is not on hand a sufficient amount from the proceeds of such taxes to pay the same, shall be paid out of the general fund, and the amount necessary therefor is hereby appropriated, to be reimbursed from the proceeds of such taxes when received. All moneys received from the sale of such certificates shall be credited to the Minnesota Seaway Property Conservation Fund.

[1957 c 849 s 3; 1969 c 399 s 1]

**458.53 PURCHASE OF CERTIFICATES OF INDEBTEDNESS BY STATE BOARD OF INVESTMENT.** The state board of investment is hereby authorized to invest any funds under its control or direction in any certificates of indebtedness issued hereunder and to purchase such certificates at such rate of interest as it may determine, and such certificates may be issued and sold to the board without advertising for bids.

[1957 c 849 s 4]

**458.54 APPROPRIATION TO GOVERNOR.** There is hereby appropriated to the governor out of the Minnesota Seaway Property Conservation Fund all moneys which from time to time may be credited to said fund for the purposes hereinafter specified. Any balance remaining at the end of any fiscal year shall be carried over and shall be available for the purposes of sections 458.50 to 458.59 until July 1, 1972, and thereafter until all obligations theretofore incurred hereunder have been paid.

[1957 c 849 s 5]

**458.55 PORT AUTHORITIES MAY APPLY TO GOVERNOR FOR AID.** Any port authority organized and operating under Minnesota Statutes, Sections 458.09 through 458.19, or amendatory and supplemental laws, which owns lands in a port district upon the Great Lakes—St. Lawrence Seaway, which are submerged, eroded

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or depleted, or which for any reason are valueless for riparian purposes, which land is so situated so as to be beneficial to the citizens of this state were the land to be developed to economic usefulness, may apply to the governor for assistance in conserving, reclaiming, developing or protecting such land. The application to the governor shall describe the lands sought to be conserved, developed, reclaimed or protected; shall contain photographs or surveys showing the tract and its proximity to navigable waterways; an estimate of the cost of such; plans showing the manner in which the conservation, development, reclamation or protection of such lands may best be achieved; the use to which such lands will be put upon their conservation, development, reclamation or protection; the benefit to the people of this state from such a project; and a request of the governor for funds necessary to conserve, develop, reclaim and protect any such tract or tracts, by piling, bulkheading, filling or any other means, without limitation, by reason of the enumeration of the foregoing.

[1957 c 849 s 6]

**458.56 APPROPRIATION BY PORT AUTHORITY BEFORE APPLICATION.** Before submitting such an application such port authority shall by resolution appropriate its funds in an amount equal to that requested by the governor for expenditure upon the conservation, development, reclamation, or protection of the lands described in the application or for expenditure for capital improvements necessary to render such rehabilitated lands useful for port authority purposes. The funds appropriated by any such port authority shall be spent solely for the purposes detailed in the resolution and in furtherance of the plan submitted to the governor or modified with his consent and the approval of the state executive council. Such port authority may for the purpose of furthering a single integrated project as described in its initial application for funds to the governor make further applications for additional funds in the same manner as set forth herein.

[1957 c 849 s 7]

**458.57 GOVERNOR TO DETERMINE AMOUNT OF FUNDS TO BE ALLOCATED TO PORT AUTHORITY.** Upon receipt of any such application, the governor, with the approval of the state executive council, shall determine what amount, if any, of the funds of the Minnesota Seaway Property Conservation Fund shall be paid over to the treasurer of any applying port authority, taking into consideration the location of the port authority with respect to the Great Lakes—St. Lawrence Seaway, the usefulness of the port as part of a domestic or foreign system of water-borne commerce; the use to which the reclaimed lands described in the application will be put by the port authority upon the conservation, reclamation, or protection of the lands; the benefit to the people of the state of Minnesota as distinguished from purely local benefits to be derived from the completed plans of any such port authority; the amount and nature of seaway property in said port unsuitable for maritime use because of submersion, erosion, or depletion; and the feasibility and cost of conserving, developing, reclaiming or protecting seaway property in any such port. Upon order of the governor, the treasurer shall pay from the Minnesota Seaway Property Conservation Fund such amounts and in such manner to such port authority as the governor, with the approval of the state executive council, may designate.

[1957 c 849 s 8]

**458.58 LIMITATION ON EXPENDITURES OF PORT AUTHORITY.** Any moneys paid to any such port authority from the Minnesota Seaway Property Conservation Fund shall be expended by such port authority solely for conservation, development, reclamation, or protection of the lands described in the application in accordance with the plan submitted to the governor and approved by him, with the approval of the state executive council. Such plans may be modified by the port authority from time to time only with the written consent of the governor and the approval of the state executive council.

The books, records, accounts and affairs of any such port authority shall be audited by the public examiner in the same manner as he makes audits of any county and such port authority shall reimburse the public examiner for the reason-

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## 458.59 WATER TRANSPORTATION FACILITIES; PORT AUTHORITIES 4940

able cost thereof in the same manner as the public examiner is reimbursed by a county for an audit.

[1957 c 849 s 9]

**458.59 SUBMERGED AND TAX FORFEITED LAND; SALE AND USE.** Subdivision 1. It is hereby determined and declared that the use of any submerged, eroded, or depleted tracts of land in harbors upon navigable waters by any political subdivision of this state or by any port authority for the purpose of conserving, developing, reclaiming or protecting such lands so as to restore them to economic usefulness is a public use conferring a public benefit. The commissioner of taxation is authorized to transfer any of such tracts forfeited to the state for taxes to any political subdivision of this state or port authority for such use in accordance with the provisions of Minnesota Statutes, Section 282.01. Any political subdivision of this state or any port authority acquiring such lands may conserve, develop, reclaim or protect them in any manner deemed suitable by the governing body. Upon their being restored to a state of economic usefulness, any such political subdivision or port authority may put them to their own use, or lease them upon such terms and conditions as the governing body may see fit.

No such lease shall be made and entered into without the approval of the governor and the state executive council.

Subd. 2. State-owned tax-forfeited riparian or submerged lands located in harbors upon the Great Lakes-St. Lawrence Seaway lying within 1500 feet of the duly established harbor line may be offered for sale or sold as tax-forfeited land as allowed by law; provided however, if such lands lie within a port district which is subject to the jurisdiction of a seaway port authority existing by virtue of Minnesota Statutes 458.09 to 458.19, such offer for sale or sale shall not be made without the approval by resolution of such seaway port authority and of the executive council of the state. The provisions of this subdivision shall not amend, repeal or otherwise affect Laws 1963, Chapter 827.

Provided further that if such lands have been developed, improved or used for business or development purposes by persons, firms, or corporations who are using and occupying, and who have used and occupied, said property for business or development purposes for at least two years prior to sale, pursuant to a lease with the state or a governmental subdivision, then such person, firm, or corporation shall have the right, on the first day set for sale by the county auditor, to purchase said property at 125 percent of the appraised value.

In the event that any of the provisions of subdivision 2 render this section unconstitutional, that portion of subdivision 2 shall be severable and of no effect.

[1957 c 849 s 10; 1965 c 473 s 1]

**458.60 MUNICIPAL SEAWAY PORT AUTHORITY BONDS, DISPOSITION OF INCOME.** Subdivision 1. Any city or county entitled to appoint members to a seaway port authority existing pursuant to the provisions of Minnesota Statutes 1957, Chapter 458, and any act amendatory thereof, and which has issued its general obligation bonds and appropriated the proceeds thereof for any of the purposes of such seaway port authority as authorized by Laws 1957, Chapters 648, 831, and 849, and any act amendatory thereof, shall conform with the provisions of subdivision 2 in the disposition of any income from investments which such city or county may have received from the proceeds of the sale of such general obligation bonds.

Subd. 2. Any moneys which such city or county has received or may receive from the investments of the proceeds of the sale of the general obligation bonds shall be for the benefit of such seaway port authority. The proceeds of such investments received by either such city or county prior to the passage of this section shall be transferred and delivered to such seaway port authority as follows: one-fifth thereof on or prior to December 31, 1961; the remaining four-fifths in equal installments of not less than one-fourth per calendar year on or prior to December 31, 1965.

The proceeds of such investments which may be received by either such city or county after the passage of this section shall be forthwith transferred and delivered to such seaway port authority as the income from the investments is received.

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Subd. 3. Moneys received by such seaway port authority from either such a city or such a county may be expended by the seaway port authority for any authorized lawful purpose.

[1961 c 371 s 1-4]