CHAPTER 457A

PORT DEVELOPMENT ASSISTANCE

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457A.01 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of sections 457A.01 to 457A.06, the following terms have the meanings given them.

Subd. 2. **Commercial navigation facility.** "Commercial navigation facility" means (1) terminals and docks used for the transfer of property or passengers between commercial vessels and land, and supporting equipment, structures, and transportation facilities, (2) disposal facilities for dredging material produced by port development projects, and (3) buildings and related structures and facilities used by commercial vessels under construction or repair. "Commercial navigation facility" does not include any commercial navigation facility that is (1) not on the commercial navigation system, or (2) the responsibility of the United States Corps of Army Engineers or the United States Coast Guard.

Subd. 3. **Commercial vessel.** "Commercial vessel" means a vessel used for the transportation of passengers or property. "Commercial vessel" does not include a vessel used primarily for recreational or sporting purposes.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of transportation.

Subd. 5. **Dredging.** "Dredging" means excavating harbor sediment or bottom materials, including mobilizing or operating equipment for excavating and transporting dredged material and placing dredged material in a disposal facility.

Subd. 6. **Navigation system.** "Navigation system" means (1) the commercially navigable waters of the Mississippi River, the Minnesota, and the St. Croix Rivers, (2) the commercial harbors on Minnesota's Lake Superior shoreline, and (3) the commercial navigation facilities on those waterways.

Subd. 7. [Repealed, 1995 c 265 art 2 s 33]

History: *1991 c 298 art 3 s 1; 1992 c 464 art 1 s 44*

457A.02 PROGRAM ESTABLISHED.

Subdivision 1. **Purpose of program.** A port development assistance program is established for the purpose of:

(1) expediting the movement of commodities and passengers on the commercial navigation system;

(2) enhancing the commercial vessel construction and repair industry in Minnesota; and

(3) promoting economic development in and around ports and harbors in the state.

Subd. 2. **Commissioner to administer.** The commissioner shall administer the port development assistance program to advance the purposes of subdivision 1. In administering the program, the commissioner may:

(1) make grants and loans to applicants eligible under section 457A.03, subdivision 1, to apply for them;

(2) make assistance agreements with recipients of grants and loans; and

(3) adopt rules authorized by section 457A.05.

History: *1991 c 298 art 3 s 2; 1995 c 265 art 2 s 30*

457A.03 PORT ASSISTANCE.

Subdivision 1. **Eligible applicants.** Any person, political subdivision, or port authority, that owns a commercial navigation facility, may apply to the commissioner for assistance under this chapter.

Subd. 2. **Types of assistance.** The commissioner may make loans to an eligible applicant if the commissioner determines that the project submitted by the applicant for assistance will serve either or both of the purposes stated in section 457A.02, subdivision 1, clauses (1) and (2). The commissioner may make grants, or a combination of grants and loans, to an eligible applicant if the commissioner determines that the project submitted by the applicant for assistance will serve either or both of the purposes stated in section 457A.02, subdivision 1, clauses (1) and (2), and will also enhance economic development in and around the commercial navigation facility being assisted.

Subd. 3. **State participation; limitations.** The commissioner may not provide any assistance under this chapter for more than 80 percent of the total cost of any project. Assistance provided under this chapter may not be used to match any other state funds. The commissioner shall not assume continuing funding responsibility for any commercial navigation facility project.

History: *1991 c 298 art 3 s 3; 1995 c 265 art 2 s 31; 2026 c 130 art 2 s 7*

457A.04 ASSISTANCE AGREEMENTS.

Subdivision 1. **Agreements required.** The commissioner may not provide any assistance to a project under this chapter unless the commissioner has signed an assistance agreement with the recipient of the assistance.

Subd. 2. **Costs.** (a) An assistance agreement must specify those project costs which may be paid in whole or in part with assistance from the commissioner. Assistance agreements may provide that only the following costs may be so paid:

(1) final engineering costs on a commercial navigation facility project;

(2) capital improvements to a commercial navigation facility; and

(3) costs of dredging necessary to open a new commercial navigation facility project, to provide access to onshore facilities from existing channels, to provide for fleeting operations, and for disposal of dredged material.

(b) The following costs may not be paid with assistance from the commissioner:

(1) the applicant's administrative, insurance, and legal costs;

(2) costs of acquiring project permits;

(3) costs of preparing environmental documents, feasibility studies, or project designs;

(4) interest on money borrowed by the applicant or charged to the applicant for late payment of project costs;

(5) any costs related to the routine maintenance, repair, or operation of a commercial navigation facility; and

(6) costs of dredging to maintain an existing channel.

Subd. 3. **Insurance; liability.** An assistance agreement must require the applicant to:

(1) provide a comprehensive general liability insurance policy, complying with minimum amount prescribed by the commissioner by rule, naming the commissioner and officers, employees, and agents of the Department of Transportation as additional insureds; and

(2) save and hold the commissioner harmless from and against all liability, damage, loss, claims, demands, and actions related to the project being assisted.

Subd. 4. **Performance and payment bonds.** An assistance agreement must require an assistance recipient to provide evidence of performance and payment bonds, satisfying all applicable legal requirements for the full amount of any and all construction contracts let by the applicant in connection with the project.

Subd. 5. **Repayment.** An assistance agreement must require the recipient to repay all or part of any assistance received, in an amount determined by the commissioner, if the project for which the assistance is provided:

(1) is not completed according to the terms of the assistance agreement, or

(2) is converted, during the period of time specified in the assistance agreement, to a use that is (i) inconsistent with the purposes of this chapter, or (ii) inconsistent with the terms of the assistance agreement, or (iii) not approved in writing by the commissioner.

Subd. 6. **Use agreements.** Notwithstanding section 16A.695, for leases or management contracts entered into with respect to property acquired or bettered with the proceeds of state general obligations bonds, (1) a port authority may meet its obligations and expenses of operating and reinvesting capital improvements by retaining revenues received under leases or management contracts and is not required to pay lease or management contract revenues to the commissioner of management and budget; and (2) the lease or management contract entered into by a port authority must not be canceled or terminated as a result of changes or termination by the state in the governmental program of the port authority unless compensation is paid as provided by law.

History: *1991 c 298 art 3 s 4; 1997 c 159 art 2 s 48; 1999 c 114 s 1; 2009 c 101 art 2 s 109*

457A.05 RULES.

The commissioner may adopt rules that provide for:

(1) application procedures for assistance under this chapter;

(2) procedures for establishing deadlines for applications, and for notifying potential recipients of those deadlines;

(3) eligibility criteria for projects to be assisted;

(4) information required to be submitted with applications;

(5) contents of assistance agreements;

(6) any other requirement of this chapter; and

(7) any other requirement the commissioner deems necessary for the administration of this chapter.

History: *1991 c 298 art 3 s 5*

457A.06 REVOLVING FUND.

A port development revolving fund is established in the state treasury. The fund consists of all money appropriated to the commissioner for the purposes of this chapter and all money received by the commissioner from repayment of loans made under this chapter.

History: *1991 c 298 art 3 s 6*