A SUMMARY OF PORT REGIONALIZATION ISSUES
WITH APPLICATION TO TEXAS

by

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ABSTRACT

Port regionalization has received little attention in published literature. This concept focuses on combining operations between two or more ports occupying the same body of water. A perception exists that there are too many port authorities. As long as this perception continues, port regionalization will remain a viable port operation, development, and policy option for reorganizing ports. A number of regions across the country have examined and proceeded with regionalization with varying amounts of success: the Ports of Hampton Roads, Virginia, New York-New Jersey, Duluth-Superior, and Philadelphia and Camden, New Jersey. A fifth region, Galveston Bay, Texas, is currently discussing the possibility of forming a regional port.

This report examines the economic, environmental, and societal factors impacting port regionalization efforts. These factors represent the issues discussed and considered when efforts to regionalize ports began in the respective regions. The economic factors comprise jobs, economic impact, taxes, competition, carrier alliances, dredging, container ships, intermodal connections, and revenue bonds. The environmental factors comprise the location and size of ports, dredging, air pollution, and the expansion of facilities. Dredging appears twice since the associated costs with dredging a channel or harbor significantly impact everyday operations. Dredging also has an environmental impact because at times dredged material may be contaminated. The societal factors comprise organizational form, the loss of identity, and politics. Out of the three, economic factors dominate the discussions in number but not necessarily in importance. The influence of politics is the second most dominant factor impacting port operations and regionalization.

The Houston-Galveston merger on Galveston Bay represents an ideal situation to examine and apply the factors affecting port regionalization. Houston and Galveston are centrally located on the Gulf of Mexico and currently do business together. While Galveston provides additional capacity for Houston, the Port of Houston provides financial and business resources. The effort to combine the ports' operations and resources to better market the region continues today.

Based upon conceptual interpretations of port regionalization and the factors associated with them, the ports on Galveston Bay appear capable of creating a
regional port system. It remains to be seen whether the region can succeed and sustain regionalization, and to what degree. Further research will determine the answers to this situation.
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CHAPTER 1: INTRODUCTION

Port regionalization has received little attention in published literature. This report describes the major economic, environmental, and societal factors associated with, impacting, and affecting port regionalization. The factors presented herein represent the issues discussed and considered by port officials in various regions of the United States. Some of the factors are universal while others are more site-specific.

A number of areas across the country have attempted and succeeded with port regionalization while others were unsuccessful. The Port of New York-New Jersey (NY-NJ) and the Port of Hampton Roads, Virginia, represent the only successful mergers in the country. The Port of Philadelphia and Camden (PPC) and the Port of Duluth-Superior represent areas where regionalization was not successful. The PPC attempt continues as of this writing. A fifth region, Galveston Bay, represents the latest area attempting port regionalization. These five are the only regions to receive legislative approval. Ports around San Francisco Bay and northern California, which include San Francisco, Oakland, Stockton, and Sacramento, as well as Puget Sound, Washington, have examined and discussed regionalization to some degree without drafting formal agreements or documents.

Defining Port Regionalization

There appears to be no true way to define regionalization. The definition may vary from site to site and from person to person. This report defines port regionalization as the merging of two or more ports that occupy the same river, bay or harbor, a definition adopted from David Olson, professor of political science at the University of Washington. Other interpretations include:

- **Removing competition between neighboring ports and intensifying it with regional ports.** This interpretation refers to unifying a number of ports in a smaller region to eliminate competition and then concentrating the competitive effort on a broader region. Creating a regional port authority can be associated with pricing wars. This interpretation applies more directly to the Port of Hampton Roads.

- **Ownership and control of a jurisdiction, be it a navigation district or port authority.** Both districts and port authorities possess broad powers and duties. The only difference being the authority retains greater internally controlled power than the district. Both of these organizational forms retain a lot of independence from the state. An authority or district is allowed to establish cargo preferences, set its
own prices, and raise taxes when and where it is necessary. A single authority or district can easily comprise more than one port under its jurisdiction. The single authority or district, created and controlled by one port, would make all the decisions for the region it covers. For example, if some ports on Galveston Bay merged, a single entity such as a navigational district would control the Port of Galveston city-owned utility and the Port of Houston Authority.

- **Ownership by a single business entity rather than an authority.** Regionalization could take the form of a privately owned operation rather than a public one. The business entity would not necessarily serve the public’s interests, as would an authority.

- **Cooperation, meaning an alliance where parties have equal stakes in the organization and decisions are made on “equal footing.”** Though this interpretation may include the creation of an authority with broad powers and control, the cooperative effort would allow for decisions to be made by all ports covered under the authority or district. “Equal footing” may come in the form of equal representation on a regional port commission or authority board.

- **The formation of an economic hub that creates jobs and distributes consumable goods throughout the region through cooperation.** This interpretation applies more to the desire behind creating a regionalized port system and to the disassociation of the port operations from the organizational form. When the Virginia Port Authority (VPA) combined three terminals to create one port, the idea was to create a better economic region capable of competing with other east coast ports such as NY-NJ.

- **Receiving cargo in one area and dispersing it in greater quantities more efficiently (less labor, cheaper transportation, and better environmental practices).** This interpretation goes hand in hand with the idea of creating an economic hub. It also represents the most productive outcome resulting from port regionalization. Each regionalized effort looks for the most efficient and cost-effective way of distributing cargo. This idea is seen at PPC. With such a short distance separating Philadelphia from Camden, New Jersey, offloading cargo on either side of the Delaware River makes no difference to the consumer. It does, however, make a difference to the shipper. The regionalized port could alleviate any confusion on the shippers’ part by putting cargo in one location. That location could be a regionalized port.

- **Increased effort to create a regional marketing plan.** Along the lines of developing an economic hub for a region is the ability to better market the region. The Port of Hampton Roads’ unification allowed the region to better present itself
internationally as well as domestically. By unifying efforts, the port made itself more attractive to shippers looking for the best possible place with the best facilities. Other ports may combine their efforts to market a region without actually merging. The Ports of Seattle and Tacoma remain separate yet often cooperatively work on issues important to the region.

- **New laws or amendments and additions to current law incorporated into state legislatures.** The initial investigation into merging the port authorities of Duluth, Minnesota, and Superior, Wisconsin, required changes in both states’ legislatures to create the Minnesota-Wisconsin Interstate Port Authority Commission. The commission created a suggested compact that required changes in Wisconsin law. Similarly, the 1921 compact between New York and New Jersey included an amendment to the 1834 agreement between the states. One purpose of the amendment was to create the Port Authority of New York. In Virginia, the addition of section §62.1-132.8 to the Code of Virginia allowed for the unification of terminal operations under the Virginia Port Authority Commission. Other sections (§62.1-132.18-19) authorized the acquisition, construction, and maintenance, among others, of marine terminals, facilities, wharves, docks, and other structures necessary to aid in the convenient use of commerce.

**Benefits of Port Regionalization**

As with the numerous interpretations, there exist many advantages to regionalization. A regionalized port can maximize its land use, improve its infrastructure, and increase capital all the while avoiding the price wars that accompany competition. A merged port can not only solve geographical disputes and eliminate rate wars, as happened before the New York-New Jersey merger, it can eliminate impediments to shipping certain commodities, attract regional manufacturers, provide better shipping services, and improve navigation safety. A regionalized port also provides flexibility. For example, when critical cargo needs offloading and dock space is not available at one terminal, a regional port has the option of moving cargo to one of the other terminals within the port system.

At most ports, however, business is booming. Trade and cargo volume continue to grow at a healthy pace across the country and there appears to be plenty of cargo to go around, thus, ports may not need to merge to generate additional cargo. Conversely, regionalization is a concept that may help ports keep pace with changes in the maritime industry. When it comes to facing the volatile trade market and political and economic
changes around the world, ports must monitor these changes and carefully weigh their options. In addition to regionalization, there exist a number of alternatives that ports may want to consider including regional planning, diversification, and a statewide financing program.

**Alternatives to Port Regionalization**

One example of regional planning not associated with unification occurred in Virginia. The unification at the Port of Hampton Roads involved three terminals. In 1989, the VPA opened the Virginia Inland Port in Front Royal as an intermodal container distribution center. The port used the VPA’s strength, regional scope, and cooperation to create an efficient intermodal hub. The investment in 1989 by the VPA showed the state’s commitment to establishing itself as a major transportation port for both national and international cargo.

A second alternative to regionalization is diversification. Diversification may focus on establishing a niche market, creating port land development projects, or creating public access areas. Smaller ports that may view regionalization as an answer to their own economic struggles in the face of these changes may turn to diversification as an alternative to regionalization. Two examples illustrate diversification at smaller ports: the Ports of Everett, Washington, and Hood River, Oregon. At Everett, Washington, rather than deal in cargo, the port renovated facilities for other purposes such as storage, hotels, restaurants, and other commercial complexes. As of 1995, Everett projected $39 million in annual wages as a result of the construction of a cold-storage facility. At Hood River, Oregon, as a result of the timber industry shipping more logs through larger ports, coupled with more cargo moving in containers, the port refocused its efforts on tourism and windsurfing. The Port of Hood River projected windsurfing direct expenditures alone to increase nearly 375 percent from 1987 to 1995.

A third alternate port-related program is a statewide finance program. Two exemplary efforts include Louisiana and Florida. In Louisiana, the state created the Port Construction and Development Priority Program aimed at smaller ports. Finance for the program comes from the Transportation Trust Fund, generated from proceeds related to fuel sales and redirected to various modes of transportation to include ports. The Port of New Orleans, the state’s largest port, was exempt from participating for the first five years. A second program, the Transportation Infrastructure Model for Economic Development (TIME), funded by an increase in the gasoline tax, provided the Port of
New Orleans $100 million for port projects provided it did not participate in the Port Construction program. The port was also required to match dollar for dollar the money provided by TIME. The success of TIME has prompted benefactors to call for its continuance or the creation of a similar program. Currently, TIME is funded through 2009.

In Florida, the Florida Seaport Transportation and Economic Development Council, comprising all public deepwater port directors as well as commerce, transportation, and community affairs secretaries, administers the Florida Seaport Transportation and Economic Development program. The program was created after the state legislature agreed that a unified state port industry, acting in cooperation with all ports, would provide a benefit to the state. The grant-money program is used for land or capital-good acquisitions, improvements to facilities, dredging, or other infrastructure projects that improve movement and intermodal transportation of cargo or passengers within Florida. The council is responsible for deciding what projects across the state will be funded. The program in the first five years of its existence has allowed large ports to quicken the completion of projects and has allowed smaller ports the possibility of completing projects they otherwise would not be able to complete. Since its inception, only one of Florida’s ports, the small Port St. Joe, has not used the program.
CHAPTER 2: THE FACTORS

The main factors that affect port regionalization are economic, environmental and societal factors.

Economic Factors

The economic factors associated with port regionalization include jobs, economic impact, taxes, competition, carrier alliances, dredging, the taxes for dredging, container ships, intermodal connections, and revenue bonds.

Jobs

Port regionalization and expansion has the ability to create new jobs. Without seeing people put to work, the community- and quite possibly the counties and states- may not be willing to support a merger. One factor often pointed to for a reason behind regionalization is the “reduction of effort.” The Port of Philadelphia and Camden (PPC) cites job redundancy as a prime factor behind its intent to regionalize the area. A reason why the merger is possibly not completed is because jobs were not cut nor was administration streamlined as intended.

The measure of a port’s success, whether regionalized or not, cannot truly depend on the number of jobs created. With technological advances and automation, ports have the ability to increase their productivity and efficiency, thus their revenue, with fewer personnel. For example, the Port of Duluth-Superior during the 1940s imported coal from the lower Great Lakes area along 20 docks employing 2000 blue-collar workers. In 1999, using an automated coal facility called the Midwest Energy Resources Company, the port exported more coal than what was imported in the 1940s. Today the entire facility, opened in 1976, employs 65 people from top management down to the lowest dockworker.

In addition to the actual number of jobs, it is important to note where the jobs are located. In NY-NJ, for example, 45 percent of the jobs at the port are blue-collar and located on the New Jersey side of the harbor. The remaining 55 percent comprise more administrative, white-collar positions and are found mainly in New York. The success of a port based upon the number of jobs is often looked at in terms of the number of blue-collar jobs. It is the more visible, blue-collar jobs that get the attention. Seeing a
stevedore unloading a container is much more marketable than watching a clerk file a memo. White-collar jobs are often more likely to be lost as a result of ports merging. At PPC, it was the white-collar, administrative jobs that were targeted for removal. To see this kind of uneven distribution is misleading and inaccurate and may lead to polarization of issues between two merged ports.

A key measure of a port’s economic and industrial success will continue to be based upon the number of jobs until there is a way to incorporate the effects of the increase in the size and speed of ships, the reduced time spent in port, the impact of the reduced labor force both on the ships and the docks, the advancement of dock facilities, the improvement in the environment, and the cleanliness of the facilities.

Economic Impact

Economic impacts emerge in many forms. Some examples include:

- From the time of unification in 1982 to 1998, the Port of Hampton Roads saw a growth of over 350 percent in cargo tonnage. Cargo volume has grown from 2.4 million to over 11 million tons. As a result of its effort, the Port of Hampton Roads moved from sixth to second in general cargo tonnage for ports on the east coast. The port retains the highest volume on the east coast.
- Despite unification plans being on the back burner, cargo tonnage at PPC rose 11 percent in 1998 and set a regional record. From 1996 to 1997, tonnage rose 33 percent. More specifically, breakbulk cargo rose 70 percent while steel rose 146 percent. From 1997 to 1998, winter fruit imports rose 25 percent. There appears to be no lag in economic impact as a result of the continual merger discussions.

The economic impact is not necessarily wholly positive for every port. A smaller port fears a loss of revenue if merged with a large port. Though a pool of money generated as a result of a merger may be bigger for both ports, the smaller port’s share, when compared to generating the revenue independently, may be less if combined with another. A large port can provide money to a smaller port to fund a niche market. In return, the smaller port provides something the larger port needs, such as additional land access. For example, if a regional effort was formed between Port Freeport and the Port of Houston, Houston could benefit from the additional land access provide by the smaller Freeport. A similar situation prompted recent merger talks between
Houston and Galveston. Facilities at Houston’s Barbours Cut Terminal had reached capacity. Thus, Houston leased dock space at Galveston to handle the overflow. In return, Galveston received compensation in the form of a payment to the City of Galveston plus money to repair and upgrade a number of cranes.

In some cases a port will not regionalize because the economic impact is not significant enough to all parties involved. One example of this was the San Francisco Bay region. Port officials from the region stated that a combined entity between Oakland and San Francisco would allow the ports, especially San Francisco, to attract expansion capital that San Francisco alone would not be able to muster. However, when officials reviewed and analyzed the impact of a merger on San Francisco Bay, they determined that there would be no significant economic impact to the Port of Oakland as a result of merging with San Francisco. Thus, no merger took place.

The lack of need for economic gain may also lead to ports not merging. This may sound confusing, but the idea is rather simple. Long Beach and Los Angeles, ranked one and two in total cargo value, are neighbors separated by city boundaries and repeatedly scoff at the idea of merging. Seattle, ranked fifth in the U.S. in terms of total value of foreign traffic, and Tacoma, ranked ninth as of 1994, lie on Puget Sound and do not appear interested in merging anytime soon. Along the east coast, none of the sizable ports as measured in terms of cargo value and tonnage that lie between Hampton Roads and Jacksonville, Florida, have ever considered merging. These more successful ports feel that regionalization is counterproductive to current operations.

A number of the cases where regionalization was attempted, discussed, or completed involved one higher revenue-generating port merging with a lower revenue-generating port. Examples include San Francisco and Oakland, Duluth and Superior, and Houston and Galveston. The cash-strapped Port of San Francisco looked to Oakland as a potential partner. San Francisco wanted to re-enter the container market and increase its cargo stream. After carrying less than 5 percent of cargo stream in the region, the port wished to increase this amount to 15 percent. San Francisco wanted the Port of Oakland to either supply the cargo or pay the difference in revenue. San Francisco also looked to Sacramento and Stockton for additional support. In Minnesota, the Duluth Seaway Port Authority would have helped the port and city of Superior, Wisconsin. A bi-state authority would have brought additional revenue to both sides of that harbor, but mainly for the authority.
One difficulty in measuring economic impact is determining how much of the revenue is actually returned to the port. This problem involves absentee owners of facilities along the dock. At Duluth-Superior, almost all facilities are absentee owned; the facilities are simply field locations of the parent corporation. Local residents minimally staff the facilities. With technological advances and higher productivity, the parent corporation uses the facilities to generate sufficient revenue, pays the local staff quality salaries, and takes the remaining money and reinvests it outside of the immediate port region. The revenue that flows through the facility does not stay in the port with the possible exception of the lease and docks fees. Even though a high amount of revenue flows through the port it does not necessarily mean the port, or the authority in charge, is responsible nor can the port take credit for the economic impact.

Taxes

An additional economic impact is the distribution of tax revenues. A bi-state, or even a bi-county, agency has the difficult task of determining where tax dollars generated for the agency are used. When legislation was first created to approve the formation of the Ports of New York-New Jersey, the compact stated the new agency would not have any taxing authority. This inability to levy taxes provided the new Port of New York Authority with a significant amount of independence. The new authority could charge rent and collect tolls on its terminal and transportation facilities to partially support bonds. These bonds would be used to finance port development and modernization.

However, when two states or counties do merge, the creation of a new taxing district is required. Though an authority has jurisdiction over and operates in two states, such as in New York and New Jersey, Pennsylvania and New Jersey, or Minnesota and Wisconsin, how to distribute the taxes is hotly contested. Would taxes go to the individual ports, the cities represented by the ports, the counties, the states, or some combination thereof? How much or what percentage of the taxes will be sent to which jurisdiction? Once when, where, and how much has been decided, it is quite possible that tax money sent back to the authority for use in the port may have to be repaid to the city or county that it came from. For example, one issue labeled the most controversial and potentially disadvantageous between Minnesota and Wisconsin concerned how taxes were to be levied for the new commission (i.e., the one formed if the merger had gone through) and on whom. Despite the advantage of access to land for expansion for Minnesota, the issue of where taxes were to be used overshadowed other benefits.
Competition

Merging may not only eliminate a chief competitor, it may create a larger conglomerate. At PPC, one of the intentions behind merging was to increase the competitive position of the ports in relation to other regional ports such as NY-NJ. Competition did not exist between the ports on each side of the Delaware River. The ports had worked on a number of issues related to the river together, and there was a certain amount of cargo overlap. In recent years, the cooperation between the ports has increased tremendously.

One intention of the merger between New York and New Jersey was to prevent destructive competition. Separate ports would have driven rates higher in New York essentially forcing shippers to go to New Jersey where costs are cheaper. New Jersey, not having the modern piers and rail connections at the time, would have driven shippers elsewhere such as Baltimore or Philadelphia where there was greater capacity. Today, the division of the two states would be counterproductive to the region. It is not surprising that in 1917 the Interstate Commerce Commission effectively forced the region to merge. By declaring the industrial district in northern New Jersey and New York a single community historically, geographically, and commercially, the region was compelled to solve its problems along the harbor.

Hampton Roads used regionalization to eliminate competition among the three terminals and to intensify it with other northeastern U.S. ports such as NY-NJ. In 1969, the Virginia General Assembly commissioned a study that determined that a multi-agency port system in place at the time would lead to unnecessary competition. In the early 1980s before unification, Hampton Roads was ranked sixth on the east coast in cargo tonnage, mainly containers. After unification Hampton Roads' cargo tonnage increased to second behind New York. As a result, ports such as Baltimore, Philadelphia, and Boston lost a portion of their container market share to Hampton Roads.

At Duluth-Superior, one of the key advantages to the proposed merger was the ability to enhance competition for grain shippers. If they were to see the advantages of the merger in respect to enhanced competition of grain shippers, the port first needed to gain extensive knowledge of bulk shipment and construction rates at other ports. The region or the port also needed to ensure railway rate imbalances and seaway user tolls
did not erode this and other advantages of the proposed merger. In addition to enhanced competition for shippers, a coordinated effort between Duluth and Superior would have reduced competition between the two ports and replaced it with mutual cooperation.

*Carrier Alliances*

Much along the same thread as port mergers and consolidations, carriers are seeking alliances to streamline operations and increase revenue. The big shippers, driven by the changing trends in the container market, need to reduce per-unit costs and maximize their economies of scale as well as fill the larger ships. Partnerships or mergers appear one way to accomplish this. Ports need large capital to accommodate carrier alliances. Though alliances may eventually drive down the final cost to the consumer, the tax increase needed to help subsidize port investments to accommodate the carrier alliance may far outweigh the savings to the consumer. One response to this trend is cooperative action between ports and regionalization.

The trend toward port regionalization is a concern being felt mainly at smaller ports. Smaller ports do not have the capital or infrastructure desired by the merging carriers nor do they have the ability to compete with larger ports. Hence, merging may help them stay competitive during the times of carrier alliances.

It is worth noting that those ports wishing to expand and take a bite out of the container market must do it wisely. The ability for a port to remain economically viable will become more difficult as large, merged carriers leverage their ever-expanding cargo volumes against ports in order to get the lowest possible lease rate. The best example of this can be seen on the west coast. Sealand-Maersk intended to develop a new container facility at one of the two southern California ports. Rather than risk certain financial loss, the Port of Long Beach made its best offer to Sealand-Maersk and accepted the results. Although the port lost out to Los Angeles, it realized that other major tenants would need the same type of facility. The port relegated itself to a possible second place finish in the port size race without sacrificing financial stability.

*Dredging*

Dredging and the money needed for it certainly drives the push to regionalization. Smaller, less productive ports that need increased and regular maintenance dredging to
remain competitive will struggle in the market without adequate financial backing because of the increased costs of dredging and dredge disposal. As the pool of federal money for dredging diminishes, those ports showing a good cost-to-benefit ratio for dredging will get the money first. It is possible that regionalized ports may have a better chance of keeping their cost-to-benefit ratios higher. An example of this can be seen in the San Francisco Bay region. The Port of Sacramento stated as a positive benefit for a unified effort between their port and that of San Francisco, Oakland, and Stockton the ability to create expansion capital for projects such as dredging. Had a merger been successful, the region would have produced a better cost to benefit ratio and created a larger regional fund. From that fund the port could extract the extra dollars needed to dredge the channels at Sacramento from 30 to 35 feet.

The Port of Hampton Roads has some of the deepest channels in the country with authorization to go deeper. The deep channels are continually touted as a reason behind their success. Continued success of NY-NJ requires the deepening of its channels and harbors. The increase in depth is needed since Sealand-Maersk has opted to build a mega-container terminal at its docks. Part of a $7 billion infrastructure improvement investment covers the channel deepening. Not every port, however, can freely use internal funds to pay for dredging; that privilege belongs only to the ports with operating revenue. The remaining ports depend more heavily on the new Harbor Service Fund.

Taxes for Dredging

Officials in the maritime industry agree that deeper channels must exist so ports can handle the larger ships. In turn, it is the larger ships that support the port in the marketplace. The ability to fund dredging is a chief concern when examining this situation. Currently, in the federal legislature is the new Harbor Service Fund (HSF) primarily directed at dredging to replace the unconstitutional Harbor Maintenance Tax. Unlike the Harbor Maintenance Tax, the HSF is not a tax but an assessment made on a vessel for its use of the harbor rather than the cargo the vessel is carrying. The primary users of Federal channel and harbor projects, namely the commercial vessel owners and operators, will pay the Harbor Service User Fee, through which the HSF will be supplied. The fee is based upon ship size, movement frequency, service demand and the operational characteristics of particular vessel categories. The repealed Harbor Maintenance Tax put a fee on the cargo the vessel exported instead of on the vessel.
itself. The new fund would generate about $980 million a year to finance the costs of dredging.

The Water Resources Development Act (WRDA) is another way for ports to fund dredging projects. The WRDA is the means by which Congress authorizes dredging projects, both new and construction maintenance. Funds for these projects come from two sources. New construction dredging is paid from the Harbor Maintenance Trust Fund while maintenance dredging is paid by the Inland Trust Fund. Ports can either pay for the total cost of dredging or have the government pay according to WRDA authorization. The WRDA requires ports to share anywhere from 25 to 60 percent of the total costs. The act shifts part of the responsibility of channel deepening projects from the federal government to the ports, through the development of a cost sharing formula with a local partner. Since its inception in 1986, the WRDA has authorized over 45 channel development projects.

Port officials, carriers, and shippers tout the WRDA. Conversely, the approval of the Harbor Service Fee may delay or even eliminate deepening and improvement projects in areas such as Oakland, Baltimore, Savannah, and Jacksonville. For Oakland especially, the fee would require the port to search for outside funding in order to maintain current contracts. At the same time, delays in yearly enactments of the WRDA will add unnecessarily to the cost of projects and defer much needed transportation cost savings, job creation and economic development in communities across the country. It is not surprising to see port authorities opposing any industry-supported fee such as the Harbor Service Fee.

Port authorities feel any kind of recovery fee would harm many ports. How the fee is calculated will determine what ports are affected. First, the costs of dredging may be calculated based upon congressionally authorized fees that depend on the specific project. With dredging costs and extents varying between ports, this type of recovery fee could harm competitive relationships. Areas that demand the deeper channels to retain their competitive advantage, such as Hampton Roads and NY-NJ, would be more affected than smaller ports such as Baltimore or Boston. On the west coast with naturally deep channels and where competition is great, the idea of project-specific fees benefits these ports. The Harbor Service Fee, which taxes imports based upon value, harms the larger ports in the west because they bring in the greatest value of cargo and do not need dredging.
A second approach to collecting money for dredging is a system-wide assessment. This approach harms smaller ports with lower dredging requirements and costs because it subsidizes dredging for other ports at their expense. The system-wide approach would not affect inter-port competition, especially for larger ports. Regions, such as Duluth-Superior and San Francisco Bay, could be seriously affected. Both of these regions have one port more dominant than the other or others. Though unfounded, mergers may have alleviated the concerns of the smaller ports by creating a larger port system capable of attracting the money needed for dredging without feeling the adverse effects on their revenues. Regions wishing to consolidate or unify their efforts would be wise to carefully consider the impact of the eventual Harbor Service Fee, or whatever moniker is finally attached.

*Container Ships*

Over the past thirty years containerization has become a popular form of waterborne commerce. The U.S. Department of Transportation predicted in 1998 that nearly 90 percent of all goods by the year 2010 would move via container ships. Worldwide container trade has grown nearly 10 percent per year for the last ten years with a projected 8 percent growth rate into the next century. To accommodate the increase in commerce, the number of ships is increasing nearly 10 percent per year mainly in the form of giant container ships, or megaships. By 2010, nearly 30 percent of all cargo will be handled by ships with 4000 TEU capacities. Of that 30 percent, 9 percent will be by ships greater than 6000 TEUs in capacity. The ports with the ability to accommodate the largest ships will not miss out on the business generated by them. The ports with significant channel depths, ranging from greater than 45 to 55 feet, will be the ones in the best position. Along the east coast, the Port of Hampton Roads already maintains a 50 foot outbound channel with authorization to go to 55 feet. The Port of Seattle received permission to dredge to 51 feet to handle the next generation of container ships. The Port of New York-New Jersey has plans to dredge to 45 feet and deeper to accommodate Sealand-Maersk’s recent decision to build a mega-container terminal at their port. Not every port, however, needs to be regionalized or unified to attract the largest ships. Being a regionalized port helped Hampton Roads generate the funds necessary for dredging. On the other hand, the City of Texas City has attracted private investors to fund its container terminal and has permission to dredge to 50 feet but is not a regionalized port.
Intermodal Connections

If regionalization involves either an increase of or an improvement in facilities, the rail and trucking companies will get the additional cargo generated from this increase or improvement. Rail and trucking companies benefit from port regionalization since any increase in cargo volume through the port will mean an increase in business for them as well. For example, if a megaport container facility is built in Houston rather than at its possible new neighbor, Shoal Point, the Texas Terminal Railroad, which owns and operates the Port of Texas City, will get the new cargo and be satisfied.

The quality and efficiency of the intermodal services is important to the operations of a regionalized port. The ports that do not need regionalization such as Charleston and Savannah have better intermodal structures due in part to lack of congestion, e.g., additional trucks on the road. The reason to this is that these larger ports are located in less populated regions.

For a port to succeed in regionalization, it must consider the link between trucking and shipping. Providing a choice of where to dock, a port can help keep waterborne carriers turning a profit, such as at Hampton Roads or PPC. These carriers in turn can pass on the added revenue to the truck drivers paying them a proportionally higher rate.

The intermodal rail connection is another aspect of regionalization that must be examined. Recommendations related to intermodal connections and port development indicate allowing multiple rail carriers access to all Virginia Port Authority facilities would enhance competitive pricing and increase service options. The 2010 Plan for Virginia includes developing better on-terminal rail access. On-terminal access cuts down on the time cargo goes from the ship to its intermodal form of travel. For the carrier, on-dock access is the key to any new port facility. The ability to attract carriers is linked to the increased use of intermodal rail especially if facilities have the ability to double-stack containers. At the Port Elizabeth Marine Terminal in New York, the port uses express rail that focuses on hinterland cargo, that is, cargo outside the main region away from the port.

It is speculated that the lack of sufficient intermodal access, especially rail, may hamper future plans between Houston and Galveston. Similarly, one downfall of the attempted merger on San Francisco Bay was the Port of San Francisco’s lack of efficient rail
service. The relatively densely populated city simply does not have the room for the kinds of rail access a large regionalized port needs.

Revenue Bonds

Another aspect of competition is the ability to create competitive rates and make the port financially viable. One way to do this is through revenue bonds. At Duluth-Superior, where finances, local politics, and vast structural differences prohibited merging, the creation of revenue bonds, which the Duluth Seaway Port Authority had the ability to do, may have been helpful but still would have left other issues unresolved.

Environmental Factors

Not all factors have a direct impact on the environment; more so it is the environmental location. Two examples of this include the proximity to the open ocean and to other ports, and the current size of the port. Factors that may have a direct impact on the environment include the expansion of the facilities, air pollution, and dredging, among others.

Location

Shippers desire a close proximity of ports to the open ocean because speeds are severely reduced on inland waterways. A number of ports demonstrate this advantage. First, the Port of Hampton Roads cites its proximity to the open ocean as one reason for its success. Second, the Ports of Los Angeles and Long Beach lie adjacent to each other and have direct access to the open ocean. Third, the Port of New Orleans proposes its megaport at a location closer to the mouth of the Mississippi River than its current site further inland. The preferred Millennium Port site would cut transit times in half.

On the other hand, for intermodal transportation the best port location may depend on how far the cargo travels from the port. Railroads and trucking companies would rather have port facilities closer to the final destination, which may be further away from the open ocean. In an area such as southern California, however, where the population base is large, this is not always true. In this area railroad companies and trucking lines are not as concerned about their transit times for taking the cargo to its final destination. On the east coast, ports such as Baltimore and Hampton Roads were hurt by their
locations because of railway deregulation. Baltimore long touted its location as being closer to the midwest by rail. Once rail rates were deregulated, Baltimore was unable to efficiently market its rail connections. However Hampton Roads, during this time of deregulation, modified its focus and took the stance of promoting almost exclusively its proximity to the open ocean.

The proximity of ports to one another, rather than their geographical location, has also been behind the intention to regionalize. Many of the areas that have examined regionalization have used their close proximity to each other as a consideration for merging. The Port of Duluth-Superior comprises two state ports that share the same harbor separated at the widest point by nine miles of water. The Delaware River separates ports in Philadelphia and Camden, New Jersey by less than that. In the northeast the Hudson River separates New York and New Jersey. The terminals at Hampton Roads all lie within five miles of each other on the same harbor at the mouths of the James and Elizabeth Rivers. On San Francisco Bay, the merger effort between Oakland and San Francisco failed in part due to the location of the Port of San Francisco despite being only three miles from Oakland. San Francisco lies on a peninsula away from the mainland of California. Carriers that dock in San Francisco would have had to pay the extra costs related to drayage to truck cargo across the Bay Bridge into Oakland and beyond.

Part of success associated with location deals with the area’s economic viability. A port such as New York-New Jersey has the advantage of supporting a huge population base. The port can then use the region’s viability to attract more cargo away from areas that may not be as attractive economically to shippers and carriers. The high intermodal rail costs of shipping cargo between Baltimore and New York coupled with the population base swayed Sealand-Maersk’s decision to build a new container terminal at NY-NJ rather than Baltimore. There was a fear that if Sealand-Maersk moved to Baltimore, those businesses dealing with Sealand-Maersk would turn to another carrier in order to save on the cost to truck cargo south. Additionally, by operating out of New York, Sealand-Maersk had an advantage over other carriers because of its larger ships and economies of scale.

The Texas coast stretches some 400 miles along the Gulf of Mexico (GOM). Other Texas and GOM ports wholly believe that there is room for more than one megaport in Texas, let alone on the GOM. The expansive coastline provides numerous locations for ports. The east coast of the U.S. between Virginia and Florida has on average one
major container facility every 100 miles. By that notion, more megaports could possibly exist along the remainder of the gulf coast, including New Orleans. What may prevent this from happening is the lack of carriers needing to enter the GOM. Consultants for the Port of New Orleans indicate a significant increase in north-south trade between North America and Central and South America. It is this container market that GOM ports may want to target. One example of this connection thus far is the agreement established by the Ports of South Louisiana and Altamira, Mexico. The two ports pledged technical assistance and economic cooperation to develop trade ties and create better trade links between the two countries. With the potential capacity for more than one megaport in the GOM, regionalization may not be necessary.

Port Size

The size of the potentially regionalized ports represents a significant influence on the decision to merge. In the Gulf of Mexico, for example, a coordinated effort between Houston and Galveston will strengthen its position and create a larger port than New Orleans, Houston's chief competitor outside Galveston Bay. The Houston-Galveston case is a bit different endeavor than one that could occur between Long Beach and Los Angeles. Both of these ports operate off the same body of water and are chief competitors as are the potential Houston-Galveston port and New Orleans. Because of the large amount and value of Asian imports coming into the west coast of the U.S., Long Beach and Los Angeles have several regional competitors (e.g. Oakland, Seattle, or Vancouver). A merger between Long Beach and Los Angeles would certainly appear ideal based upon some interpretations of regionalization. However, Long Beach and Los Angeles are such large ports that bring in substantial amounts of revenue that operating individually is just as, if not more, beneficial. A merger between the two is simply not necessary. Houston and Galveston differ in that Galveston is a much smaller port than Houston is. A similar situation in Houston-Galveston exists at the Port of Duluth-Superior.

In the 1970s, the Duluth Seaway Port Authority attempted to merge with the Superior Harbor Commission. Though not nearly on the size of Houston, Duluth represented the larger entity with the power to overtake Superior. However, since the Port of Duluth-Superior operates in both cities, it is the smaller city of Superior itself, and not the port, that would feel the impact of a merger.
Dredging Revisited

As alluded to before, dredging is a driving force behind regionalization. Dredging proves to be a vital environmental concern as well. In some locations, the ability to properly manage dredged sediment is important to a port’s management, regionalized or not. The contamination of marine sediment threatens ecosystems, marine resources, and human health. Managing the dredging and disposal of contaminated sediment becomes a complex and often difficult task. Some of the factors related to the task include protecting human health; satisfying stakeholders’ interests and priorities; determining conflicting and overlapping federal, state, or local jurisdictions; and disposing of large quantities of contaminated sediment.

One example of the potential environmental impact of dredging is found in San Francisco Bay. In this region, the Sacramento River provides much of the drinking water. Additionally, the river acts as a navigation channel for the ports in Stockton and Sacramento. The river requires maintenance dredging that can potentially contaminate the river water. A potential regionalized effort would have provided additional funding to maintain and deepen the current channel. The increased dredging as a result, however, may have led to potential contamination.

A Texas example of the impacts of dredging is the alleged contamination of the Laguna Madre while dredging the Gulf Intercoastal Waterway (GIWW). Past and continual maintenance dredging of the GIWW through Laguna Madre has a deleterious effect on seagrass populations. The prevention of open water disposal may save the seagrass.

Air Pollution

Air pollution is a critical factor affecting port development. When considering development, regions must determine if they are in an attainment area. An attainment area is one in which the level of air pollution has exceeded the EPA’s acceptable level of standards; a non-attainment area is one that has not. If a port or a region is in a non-attainment area, that does not mean air pollution is neglected. Attainment areas, however, will receive heavier consideration of air quality. The proposed facility at Bayport on Galveston Bay in Houston is a good example. The Ned S. Holmes Bayport Terminal Complex may never be constructed because of the high levels of pollution that already exist in Houston. The facility would cover about 1000 acres, adding 5500 diesel trucks per day as well as eight 8000-foot trains. Diesel fuel exhausts from trucks are
substantially higher than gasoline. There exists three distinct air pollution problems associated with diesel exhaust: toxicity of diesel emissions, the contribution of small particle air pollution, and the combination of NOx and volatile organic carbon leading to increased ozone levels. The increased air pollution from these problems could lead to environmental sanction against the City of Houston. More than $200 million would be lost from transportation budgets if the city violates federal air pollution requirements.

In San Francisco Bay, the impact of more trucks moving across the Bay Bridge from San Francisco into Oakland and beyond would have increased air pollution had that region merged. Though economics prevented merging more than air pollution, the increased traffic and associated pollution were seriously considered.

*Expansion of Facilities*

Port expansion may adversely affect the environment. Although there are certainly economic overtones to the expansion of facilities, the factor falls here because expansion deals with land; and land, of course, means the environment. With one idea behind port regionalization to attract bigger carriers, the space needed to accommodate them needs to increase. Since ports normally deal with smaller ship operations, the day-to-day operations of a mega-terminal, those provided or generated as a result of regionalization, need to be addressed and changed as appropriate. The following are examples of the relation between regionalization and expansion:

- One reason behind the merger along the Delaware River was the ability to get more money from the Delaware River Port Authority for the purpose of expansion. The expansions, however, may be detrimental to the environment.
- At the Port of Duluth-Superior, the Duluth side of the harbor has a limited amount of room for expansion. On the Superior side, there exists unused waterfront property including piers and docks. The Duluth port does not have legal authority to use the land in Superior. A merger would have allowed this.
- In Virginia, rather than create new facilities, the merged port can look at the other terminals to determine if those facilities already exist. If so, the potential impact to the environment is reduced. Furthermore, the Port of Hampton Roads has taken a proactive approach and created a cooperative effort with the state Department of Transportation to mitigate against the loss of wetlands that may result from expansion of facilities. The port also notes that
with stricter and stricter environmental regulations, mitigation becomes harder to comply with.

- When considering a megaport for the Galveston Bay area, some environmental groups are supporting the city of Texas City's site for several reasons. First of all, Texas City lies in a non-attainment area and can meet the EPA's stringent area quality demands. Secondly, the proposed site, Shoal Point, is a dredge spoil and construction on it would not impact any current coastal ecosystems. Also, the site is located in an industrial complex and not a residential area. Finally, the proposed rail and road access corridor has been altered to prevent impact on Swan Lake and Virginia Point, both of which contain sensitive ecosystems.

**Societal Factors**

The societal factors include organizational form, the loss of identity, and politics. Politics remains as one of the more influential factors, next to economic gain, affecting port operations and regionalization.

**Organizational Form**

Conventional wisdom states that location, technology, and economics govern the form a port takes. A number of factors suggest that the operational form a port takes significantly matters. For example, the capabilities of a port are enhanced when the governing structures allow it to be flexible and internally control decision-making. The control of decision-making by an external entity as well as forcing short-term results often retards a port's capabilities. The two best examples of governing structures affecting port performance are the Port of San Francisco and the Port of Vancouver.

The Port of San Francisco was the first state-run public port in the U.S. During the first 50 years of its operation as a state agency, the port made a profit. Shortly after, the creation of ports as city departments in Oakland, Los Angeles, Long Beach, and San Diego and the shift in political power and population to the southern half of the state resulted in a decline in profits for the Port of San Francisco. As a state agency, the port required legislative approval for revenue and operational needs. Politicians from southern California saw San Francisco as competition to the newly formed ports and balked at using state funds to support the port. Seen as an encumbrance to future port
development as a state agency, California eventually relinquished control and the port became a municipal district.

In Vancouver, beginning in 1936, the Canadian Parliament, responding to the Minister of Transport, controlled operations at the port. The Prime Minister was responsible for appointing board members, approving by-laws that governed management and operations, approving expenditures for operations or construction, and marketing the port. Local ports, including Vancouver, criticized the governing structure for three basic reasons. First, the governing board in Ottawa was seen as being too distant, slow, and unresponsive to local needs. Second, the governing structure failed to properly market and develop the ports to their full potential. Third, the governing structure operated too rigidly and could not respond adequately to the rapidly changing shipping industry. Not until 1983 did Canada reform port governance and allow ports such as Vancouver to operate autonomously in its decision-making. The port achieved financial self-sufficiency and now aggressively pursues maritime business independently of the federal government.

The situations in San Francisco and Vancouver show that government structures and organizational form affect the performance of ports. Like these two cases, organizational forms affect regionalized ports or those attempting to regionalize. A number of regions exemplify this. First, ports on the west coast hate to give up their autonomy as an individual port for the sake of unification. The ports can make a profit as unified entities, but doing it for the state would not be the motivational reason. States, on the other hand, view ports as revenue generators that have too much independence.

Second, cross-state mergers appear more difficult to handle. With the economies of each state depending on commerce, cooperation is a must. Opinions of what the port authority means to each side differ, thus creating strain. For example, New York believes New Jersey is self-sustaining with most of the maritime revenue going to that state. New Jersey, on the other hand, feels the authority between the two states creates an "economic engine" that generates jobs and revenue for both states. The titanic struggle between the two state governments continues today and business is being lost at the port. For example, the Howland Hook Container Terminal in New York requires improvements to relieve congestion. Until the two sides solve their problems, projects such as the Howland Hook expansion as well as the creation of Sealand-Maersk’s new container terminal in New Jersey will be put on hold.
A third example of how organizational form can affect regionalization occurred in San Francisco Bay. One of the drawbacks to the effort on San Francisco Bay in the mid-1990s involved how to combine the different organizational forms of the four ports. San Francisco and Oakland are owned by their cities and thus respond to the mayors. Sacramento and Stockton are independent port districts controlled by directors that cover multiple counties and city governments. When the cities do not control the ports, as in Sacramento and Stockton, it makes merging that much more difficult.

Another example of the impact of organizational form affecting ports considering regionalization is occurring along the Delaware River. The merger on the Delaware River created the Port of Philadelphia and Camden, New Jersey (PPC) which operates under the Delaware River Port Authority. It is not the specific organizational form, however, that makes this location unique. What benefits PPC was the existence of an already established bi-state agency: the Port of New York-New Jersey. PPC was, and still is, able to use this current structure to create another bi-state agency of which one of the states, New Jersey, operates at both. PPC attempted to model its effort after New York-New Jersey. With one state already involved in a bi-state initiative, it was easier to involve that state in another. New Jersey is the only state taking advantage of this benefit.

The best example of the importance of organizational form to regionalization resides with the Port of Hampton Roads. Virginia, prior to unification, had three separate terminals: Norfolk, Portsmouth, and Newport News. Norfolk was operated with the city as a public corporation. Portsmouth was leased to a private terminal operator, and Newport News was owned and operated by the former C&O Railroad, now CSX. For many years prior to unification, large private interests did not dominate terminal operations. None of the businesses, including Norfolk International Terminal (NIT), which was the largest of the three, were entrenched or strongly established in the region. There was no need to unseat private interests operating at the terminals. The chances of opposition by private interests did not exist. This situation made changing the Virginia Code easy to allow for acquisition of the individual terminals by the Virginia Port Authority (VPA).

At the Port of Hampton Roads a continual factor that influences the success and daily operations of the port is their process of selecting port directors. The VPA appoints commissioners to five-year terms with a possible one-term renewal. Virginia law allows
a governor to serve one four-year term. Any change in party from one year to another at the state capital will not result in the replacement of a commissioner. The staggering of port commissioner appointments and governor elections allows for consistency in the operations of the port.

The Loss of Identity

The loss of identity may refer to several perceptions. First of all, it may be the idea that the removal of a long-standing institution such as a port would adversely affect the attitudes and perceptions of local citizens. If, for example, the citizens who were responsible for building the port were then to see it bought out or merged, they may not be able to relate to the port in the same way. Hence, their attitudes and perceptions may change. The idea of losing identity was evident in Superior, Wisconsin; Tacoma, Washington; and Portsmouth, Virginia.

First, the small city of Superior felt their civic pride would be tarnished if the Duluth Seaway Port Authority merged with the Superior Harbor Commission in the 1970s. It was one of the issues that hurt the merger. Second, in Tacoma, a sizable port on par with Seattle, felt the same. Intercity rivalries date back to the 1800s. There was no interest by the port community of Tacoma to relinquish control of the container facilities. Finally, of the three terminals that originally unified in Virginia, only Portsmouth showed any sense of a loss of identity. The city worried about how Norfolk would affect Portsmouth since Portsmouth was relatively new and achieving success.

Human Nature and Politics

Politics appears to be a fundamental influence when considering whether regionalization will or will not succeed. It is apparent that differing opinions on how a proposed merged port will operate often hamper progress. A number of examples point to how politics and human nature affect regionalization efforts and port operations.

- Possessing political clout affects port operations. When port officials know more players in the political arena (i.e. the state or federal legislature) it may allow for easier negotiations with issues such as funding for dredging.
- The initial discussions for regionalization on Galveston Bay included Houston, Galveston, and the City of Texas City. Personal differences between Houston and Texas City caused Texas City to remove itself from further port merger talks.
• Though politics did not eventually decide the fate of the merger effort on San Francisco Bay, the intention behind the effort was purely political. Mayor Willie Brown wished to head up the Golden Gate Port Authority, the designated port entity had the merger occurred, after his tenure as mayor. On the San Francisco Bay, however, political infighting, a situation that may pamper regionalization progress, did not exist.
• Despite its success as a regional, bi-state agency, the Port of New York-New Jersey continually feuds over spending. These differences are hurting current businesses, such as the Howland Hook Container Terminal, as well as hurting future businesses such as the new Sealand-Maersk container terminal.
• Governance has continually hampered the effort along the Delaware River between Pennsylvania and New Jersey. Each state government is unsure as to whether they want the merger to go through. A lot of work has been done to get the merger to the point it currently resides. Executive director of the South Jersey Port Corporation stated: “We’re too far down the road. You couldn’t even think of it not happening.”
• Virginia had no political setbacks. It has made Virginia’s situation unique and hard to duplicate. The way the organization was created was easier for politicians to deal with.
CHAPTER 3: SUGGESTIONS FOR PORT REGIONALIZATION

The future of regionalization in any area requires careful consideration of the issues. Port directors across the country provided the following advice and suggestions.

Equality for all parties is certainly the foremost suggestion. A number of questions need answering.

- Do all sides have equal benefits and have an equal footing in decisions?
  The answer to this question may be in the form of equal representation on a port commission or authority board.
- Are there similar operations for the ports in question?
  Any duplication of effort will need to be determined. Duplication may be necessary, as it is at Hampton Roads where each of the three terminals can accommodate any type of cargo. Similarly, if one terminal can accommodate, for example, containers better than another, then container cargo efforts could be focused at that terminal and efforts at other terminals could be redirected.
- Will the ports be equal in job creation?
  The equality of labor may not necessarily be possible. Large and small ports have proportionately different amounts of workers. What is important is that the proportion of the larger port to the smaller port workers remains unchanged or is not changed in favor of the larger port.
- Will there be an equal assessment of value?
  Along the line of equating the number of jobs, a smaller port may not necessarily be able to bring in the same value of cargo because it simply cannot handle the volume. What needs to be addressed is that the value of cargo is fairly distributed among the ports based, in part, on the volume the port can handle.
- Most importantly, does the region have the political wherewithal to get the merger done?
  Without cooperation and understanding between all parties, any merger effort will get bogged down in bureaucracy, politics, and differences of opinion.

The reduction of governance issues such as politics, financial spending, the acquisition of property, or the loss of identity, is a key component of any decision to regionalize. Presumably, an intrastate merger is less difficult to accomplish than an interstate merger. The ability for two states to merge has hampered the Port of Philadelphia and Camden. The bi-state agency of New York-New Jersey continually argues about the appropriate distribution of funds between the two states. At Duluth-Superior, the
creation of a bi-state agency threatened the loss of identity of the city of Superior, Wisconsin.

The idea of cooperation was used to persuade the governors of New York and New Jersey to support a constructive port program in 1921. Parties interested in merging must know ahead of time that cooperation and teamwork are critical components of any merger. Though simple to consider, cooperation and teamwork may be difficult to manage. There also needs to be a separation of the port’s or port authority’s operation from politics. Politics and political influences, unfortunately, will always be prevalent. A successful system of checks and balances between authorities and the local or state government will go a long way in establishing the benefits each entity wants to achieve.

Public agencies such as port authorities in the commerce industry must pay heed to the private sector and keep them informed about operations around the port. Davis Helberg, executive director at the Port of Duluth-Superior, offers two things that should be done if a bi-state agency were created in his region: the first and the last. The first involves a series of meetings with private landowners on the waterfront to include terminal operators as well as affected shippers and carriers. The meeting would determine if those private operators are in agreement with the port’s intentions. The last activity involves surveying the lay of the land for expansion only after reaching an agreement and creating cooperation with potentially affected stakeholders. The private sector needs to be continually involved and be on the side of the port. Otherwise, any regionalized effort becomes an incredibly monumental task. In Philadelphia and Camden, the Delaware River Port Authority (DRPA) addressed private interests when the discussions of the merger began. One potential problem arose during the discussions. Holt System’s Inc., both a private operator and operator of the largest public terminal, filed suit against the DRPA, the Philadelphia Regional Port Authority, and the South Jersey Port Corporation claiming the effort to regionalize was driving the company out of business. Elizabeth Murphy, chief executive at the DRPA, knows all too well the trials and tribulations of this particular lawsuit. She states, however, that the lawsuit had no impact on the current status of the port unification project. The important point, she notes, is that “the private terminal operators should be included throughout the process of creating a bi-state/regional agency.”

The “whole is better than the sum of its parts” best fits Robert Bray’s, executive director of the VPA, description of why regionalization works. It is hard to attract business in general and even harder when several ports in the same area are vying for the same
cargo. A unified effort to market a regional port is more likely to produce greater gains than possible if each port were to attempt it alone.

It is apparent that regionalization is site specific. It works in some areas (NY-NJ and Hampton Roads), does not in others (Duluth-Superior, San Francisco Bay, and Philadelphia-New Jersey), and is not needed elsewhere (Charleston and Savannah). However, factors exist that are universal to all regions, such as saving money. Regionalized ports can save money for port authorities. The majority of officials and analysts will agree that saving money is a foremost benefit for merging and should be a factor closely examined. Akin to saving money as a universal factor for all regions is the ability to focus competition in the right direction. Any kind of competition existing between ports is not in the region’s best interest if the ports remain separate. It only creates confusion. A region should not focus its competitive effort with closer regional ports, but redirect it on a larger level such as Virginia did.

Another universal factor affecting all ports is politics. Robert Bray offers suggestions on how to best address politics and how politicians can favor regionalization. Strong business leadership and open communication between port officials and local politicians can help alleviate some of these problems. For the politician, a regional effort can alleviate the inundation of complaints and requests thrown out by different factions such as those complaints coming from port directors. Rather than have two or three port officials or directors contacting a politician with problems, the creation of a single entity can streamline the political process, albeit the number of issues may still be the same.
CHAPTER 4: THE HOUSTON-GALVESTON MERGER

Senate Bill 1665, authored by Representative Jon Lindsay, authorized the first step toward attempting port regionalization on Galveston Bay. This section explores further the regionalization effort SB 1665 put forth.

The Port of Houston stretches 25 miles along Galveston Bay and the Houston Ship Channel comprising diversified public and private facilities. The Port of Houston ranks eighth in the world and first in the U.S in foreign waterborne commerce, second in total tonnage, and fourth in dollar value of foreign trade. The Port of Galveston, located on the north side of Galveston Island, provides a beneficial complement to the Port of Houston. Commissioner Ned Holmes from the Port of Houston feels that “[a] regional port will be a more efficient and powerful economic force for the taxpayers of both counties and cities.” The Port of Galveston favors the merger as well but until both sides of the issue agree on what regionalization means, neither will push the other, and the legislation, though approved, may never be implemented.

While Galveston provides additional capacity, especially for containers, the Port of Houston provides financial resources and marketing expertise. Houston and Galveston currently do business together making for an ideal merger opportunity. The Port of Houston moved roughly 6000 TEUs to the docks at Galveston. The move by its traditional rival at Houston helped Galveston become more agreeable to the idea of a merger. In the early 1990s the idea was not as favorably received. Initially, Houston saw using the docks at Galveston as an acquisition and Galveston saw it as a merger.

The situation on Galveston Bay is not much different from other areas of the country that have attempted regionalization. The merger involves a large port, Houston, based upon cargo tonnage moved through the port, with a smaller port, Galveston, based upon operating income and net revenue. Houston retains more power and clout and has a significantly larger operating budget. Galveston has less land and is located in a smaller city though not far removed from a major metropolitan area. These conditions are not significantly different from those in San Francisco Bay, Duluth-Superior, or at Hampton Roads, prior to their merger. A number of factors and issues concerning port regionalization apply to the Galveston Bay area and appear summarized below.

- For more than ten years, union leaders have supported regionalization on Galveston Bay. They believe the merger will create more jobs for longshoremen.
Labor officials believe that a merger will increase market share, especially the share of the Latin American container market.

- The merger would consolidate marketing resources providing for a more efficient and effective operation.
- The larger Port of Houston can provide Galveston the capital for infrastructure improvements including the funds needed to dredge the Galveston Channel.
- Regionalization will eliminate competition between Houston and Galveston and enhance the regionalized port to compete more effectively with ports in neighboring states.
- The trend in carrier alliances typically favors major load center ports. This was especially evident at the port of NY-NJ when Sea Land-Maersk selected NY-NJ as its east coast hub. Although, megaships are not likely to call on the gulf coast in the near future, their presence and changes in world trade may have an influence on shipping patterns in the gulf region.
- The Ports of Galveston and Houston must change and improve their intermodal connections if they want to compete successfully for the megaship business. State-of-the-art intermodal transportation simply is not available in the Houston-Galveston area. Cargo arriving in the Houston-Galveston area is mainly dispersed in Houston with smaller shipments going to the midwest and other Texas cities either by trucks (mainly) or as parts of a train rather than a complete unit train (cargo all going to one destination). A megaport typically receives cargo from all over the world; there may very well be enough cargo to send an entire unit train to a midwest city such as Chicago. Port regionalization may provide the leverage necessary to attract the funding and other support necessary to improve the area’s intermodal capability.
- The Port of Houston has the ability to raise money through the taxpayers; the Port of Galveston does not. The Port of Houston used that ability to raise taxes to approve the initial funding for the Bayport container terminal.
- Before any merger of Houston and Galveston takes place, the state legislature needs to review or change state laws to allow for the spending and raising of tax dollars across county lines.
- Other regions around the country have used their proximity to other ports as a reason to merge. The port facilities of Houston and Galveston lay some 28 miles apart from Barbour’s Cut at Morgan Point to the East End Container Terminal on Galveston Island. This is a significant distance compared to Hampton Roads, PPC, and Duluth-Superior. The communities they service, however, lie in adjacent counties and effectively are neighbors. In that sense, the port’s
proximity should serve them well. The Port of Houston’s centrally located position on the Gulf of Mexico makes it a strategic gateway to the distribution of commerce to the western and mid-western United States as well as the receipt of cargo from Latin America.

- The size of the ports remains an important consideration in the Galveston Bay region. Houston, dominating the country in foreign tonnage and vessels calls, dwarfs the Port of Galveston. Houston has a larger operating budget, larger facilities, more land, and the operating revenue to use for infrastructure improvements.

- Houston has a large metropolitan base from which it can draw tax money. Regions like Texas City and Corpus Christi, both interested in providing facilities for the next generation of container ships, do not have the tax base to build a megaport the size of Bayport; consequently, they must rely primarily on private funding. Port bonds provide a more immediate source of funding.

- Bayport is near residential neighborhoods but would be adjacent to an existing petrochemical complex. Despite the proximity to heavy industry, residents strongly oppose the building of the terminal for fear that the facility will drive down real estate prices. In addition, environmental groups oppose the expansion because of the potential for increased air pollution and traffic congestion. Litigation is threatened if an environmental impact statement determines that the facility, and operations associated with it, cannot meet the stringent demands of the EPA’s air quality regulations. The change in organizational form is inherent when it comes to regionalization. The biggest factor is the ability for an organization to operate across county lines. The Texas Legislature has the ability to deal with county jurisdiction issues. A change in the organizational form from an authority in Houston and from a city utility in Galveston will be needed before regionalization can be completed. One potential solution is the formation of a navigation district covering Galveston Bay.

- From the complex legislation needed to change taxing authority to the simple negotiations of lease space, politics is prevalent in Galveston Bay regionalization discussions. More so, the politics of human nature has created problems. The city of Texas City, an original member in the merger considerations, left over a difference of opinion on the development of Shoal Point. The city felt the release of its property to Houston would not result in immediate development. Texas City also had an idea to develop a joint marketing plan between Texas City and Houston. The Port of Houston declined the venture stating it would be like doing Texas City’s marketing for them. Mayor of Texas City, Chuck Doyle, envisioned
a regional port system involving all three ports on Galveston Bay. The Port of Houston’s idea for regionalization, however, differed from that of Galveston and Texas City and talks stalled.

- Another political issue was the proposed regionalization study that would have taken place before any merger went through. When Representative Craig Eiland proposed a state subcommittee to examine regionalization on the Bay, the Port of Houston balked. The creation of the committee to study regionalization would have taken some two years to research and develop and could have possibly delayed or ceased the creation of Bayport.

- The City of Texas City wants the region to know that Shoal Point is ideal for the development of a container facility. The city has even named their project the Houston-Galveston Megaport. Texas City hopes that a container facility will act as an economic engine to the city bringing in jobs and revenue. The city currently has two private investors interested in developing the site. At one point, the city of Texas City supported the idea of merging with Houston in order to facilitate competition in the region rather than destroy it. The presence of Texas City and Shoal Point is a serious factor affecting regionalization on Galveston Bay.
CHAPTER 5: PORT COMPACTS AND DIRECTIVES

This chapter summarizes four legislative compacts created by state governments for the purpose of port regionalization and then compares them to the Texas Senate Bill 1665 created for the Galveston Bay, Texas region. The four compacts comprise two that have been enacted as law and two that have not. The approved compacts include the Port of New York-New Jersey and the Port of Hampton Roads, Virginia. The unapproved compacts include the Port of Duluth-Superior and the Port of Philadelphia and Camden (PPC). The compact for PPC is currently unapproved but has not been dismissed by the regional governments. Discussions regarding the merger continue. The Duluth-Superior compact was initiated in 1976 but was passed by neither of the state governments in Minnesota and Wisconsin. The issue of regionalization is not currently being discussed at the Port of Duluth-Superior. Copies of the compacts appear in the appendix.

Port of Hampton Roads, Virginia

The amendments and additions to the Code of Virginia allowed for the creation of the Virginia Port Authority (VPA) — Senate Bill 548. The Code allowed the VPA to acquire land that was not specifically mentioned. The VPA created the Virginia International Terminal (VIT) to act as a corporate entity that would control Norfolk International Terminal, Newport News Marine Terminal, Portsmouth Marine Terminal, and Virginia Inland Port (the inland port at Front Royal was created in 1989 subsequent to the unification of the terminals). VIT reports to the VPA, which in turn reports to the Virginia Secretary of Transportation. Amendments and additions to the Code of Virginia include, but are not limited to:

- The creation and appointment of a board of commissioners responsible to the governor.
- Setting of term limits for all commissioners to include no more than two consecutive five-year terms.
- Selection of and appointment by the governor a non-board member Executive Director.
- The establishment of its legal status.
- Requirements of the VPA to stimulate commerce on behalf of the Commonwealth of Virginia.
- Permission to consolidate water terminal operations of the Commonwealth.
- Authorization to acquire property and equipment for the purpose of aiding commerce.
- Authorization to dredge channels and the construction of shipping and transportation facilities.
- Permission to lease any or all parts of its property.
- Not allowing the VPA to incur indebtedness or expending of funds for any improvement, repair, or maintenance of property.
- The power of eminent domain to acquire property potentially needed for the continued operation and improvement to facilities for the purpose of port commerce.
- The ability to issue revenue bonds to pay for all or part of any VPA project for the acquisition, construction, repair or control of port facilities.

**Port of New York-New Jersey**

The compact between the states of New York and New Jersey appeared in 1921. The original agreement between the states dates back to 1834. The compact formed the Port of New York Authority and details the geographic boundaries of the port. Specific articles detail the following information:

- Number of board members. At the time, the compact allowed three members per state. Today each state is allowed six members.
- The power of the authority and the services it provides. Powers include the ability to purchase, construct, lease, and/or operate any terminal facility within the district, and to make charges thereof.
- Funding requests. The ability to request funding from federal sources for the purpose of development or improvement of facilities.
- Salaries. States the salaries paid to officials to come from state legislatures until funds from revenue become sufficient enough for the authority to pay salaries.
- Decision-making. Lists the constraints of decision-making mainly dependent on a sufficient number of members present at committee meetings.

**Ports of Philadelphia and Camden**

The purpose of the agreement was to form the Ports of Philadelphia and Camden, Inc., a non-profit corporate entity that combines the Delaware River Port Authority (DRPA), the Philadelphia Regional Port Authority and the South Jersey Port Corporation. The entity would facilitate and control certain services at each of the three locations during a
two-year transitional period. After that period, the entity, that is the DRPA, would provide regional port services and operations to the bi-state region. Specific provisions include:

- Identification of the number and method of appointment of board members. Equal representation will exist between the two states, nine members each. All members will be appointed and not elected in both states.
- Length of appointments of board members. In New Jersey, appointments are staggered. In Pennsylvania, appointments concur with the term of the appointing authorities be they from the governor, state senate or house.
- Constraints of the board in terms of voting authority and regulation of the board.
- Source of funding for operation of the entity to come exclusively from the DRPA after the two-year transition period. After the transition, the DRPA will be responsible for all subsidies.
- The ownership, method of operation, acquisition, and dissolution of facilities.
- Development of protocol for handling of all cargo entering the region.
- Veto power of the respective governors.
- Rules for approval of all documents during the transition period and leading up to the complete unification.

**Port of Duluth-Superior**

The region first explored regionalization in the early 1970’s for the purpose of creating the Seaway Port Authority of Duluth-Superior. The operational entity is now referred to as the Duluth Seaway Port Authority. The intent was to merge the Seaway Port Authority of Duluth-Superior with the Superior Harbor Commission. For reasons described in previous chapters, the merger was not complete. The intent was for Superior to join Duluth rather than merge. The following provisions are summarized from the suggested compact and suggested enabling legislation for the State of Wisconsin:

- Designation of the number of board members, or commissioners, with appointments and terms determined by each state.
- Voting rules for the board to include approving bond spending and other financial matters.
- Specifics and requirements of the board and the commissioners.
- The statement of the authority’s legal status.
- Financial statement for collecting, for example, fees, charges, fines, and forfeitures as well as the acceptance of gifts and donation.
- Power and duties of the authority to include acquiring and holding property constructing, leasing, altering, maintaining and operating harbor facilities.

Ports of Houston and Galveston

No official charter, compact, or legislation exists for the purpose of creating a regional port system between the Ports of Houston and Galveston. Senate Bill 1665 allowed and encouraged, in essence, the region to explore and initiate further negotiations for port regionalization. Subchapter D, Chapter 62, Water Code includes three important amendments. The first allows for the acquisition of land, equipment, or improvements to certain counties. The amendment applies to districts of a certain population (2.8 million or more) and allows the district to acquire and own land and equipment of improvement in a district adjacent to the primary district's county. The ownership, for one, must be necessary, required, or convenient to the development and operation of a navigable water body within the district's county. The ownership of necessary, required or convenient property may occur in the district's adjacent county.

The second amendment allows for the addition of two additional commissioners to the primary district's operating board. The new commissioners must come from a county adjacent to the primary district and be selected by the adjacent district's county governing body.

The final amendment involves the spending of bond proceeds for certain acquisitions of certain districts. The primary district acquiring land or equipment or making improvements cannot spend bond proceeds approved by that district's voters prior to the acquisition.

These amendments amount to three things:

- The acquisition, or lease, of Galveston's East End Container Terminal.
- The addition of two more commissioners to the existing board of commissioners of the Port of Houston from Galveston County to be appointed by county government.
- The prohibition of spending any bond money, such as the bond money approved for Bayport, in Galveston County for the purpose of improving the docks and cranes at the Port of Galveston.

Senate Bill 1665 appears similar to the other compacts and charters described above. The bill defines the number of board appointees and the method of appointment. The bill authorizes the acquisition of property. The most important issue the bill addresses, however, is different from the other compacts. The bill does not authorize spending of one port’s money on another. This may be because the bill is not an official declaration of a port merger but simply an act created to aid ports in the region of Galveston Bay. The spending of bond money is an issue that would need to be resolved if an official, state sanctioned legislative compact is created for the purpose of merging the Ports of Houston and Galveston.
APPENDIX

The appendix includes the following items:

- Complete port legislation for the Port of Hampton Roads, Virginia.
- The compact for the Port of New York-New Jersey.
- Term sheet for the formation of Ports of Philadelphia and Camden, New Jersey.
- Suggested compact for the Port of Duluth-Superior.
- Senate Bill 1665 for the Houston-Galveston merger.
PORT OF HAMPTON ROADS, VIRGINIA

Approved

Be it enacted by the General Assembly of Virginia:


§ 2.1-41.2. Appointment of agency heads.—Notwithstanding any provision of law to the contrary, the Governor shall appoint the administrative head of each agency of the executive branch of State government except the following: the Director of the State Council of Higher Education for Virginia, the Executive Director of the Commission of Game and Inland Fisheries, and the Director of the Virginia Supplemental Retirement System; provided, however, that the manner of selection of those heads of agencies chosen by election as of January one, nineteen hundred seventy-six, or as set forth in the Constitution of Virginia shall continue without change. Each administrative head appointed by the Governor pursuant to this section shall be subject to confirmation by the General Assembly, shall have such professional qualifications as may be prescribed by law, and shall serve at the pleasure of the Governor. For the purpose of this section, "agency" shall include all administrative units established by law or by executive order which are not arms of the legislative or judicial branches of government, which are not educational institutions as classified under §§ 9-66.14, 9-84, 23-14, and 23-181.1-23-252, and 23-254, which are not regional planning districts, regional transportation authorities or districts, or regional sanitation districts and which are not assigned by law to other departments or agencies, not including assignments to secretaries under Chapter 5.1 (§ 2.1-51.7 et seq.) of this title.

§ 2.1-342. Official records to be open to inspection; procedure for requesting records and responding to request; charges; exceptions to application of chapter.—(a) Except as otherwise specifically provided by law, all official records shall be open to inspection and copying by any citizens of this Commonwealth during the regular office hours of the custodian of such records. Access to such records shall not be denied to any such citizen of this Commonwealth, nor to representatives of newspapers and magazines with circulation in this Commonwealth, and representatives of radio and television stations broadcasting in or into this Commonwealth; provided, that the custodian of such records shall take all necessary precautions for their preservation and safekeeping. Any public body covered under the provisions of this chapter shall make an initial response to citizens requesting records open to inspection within fourteen calendar days from the receipt of the request by the public body. Such citizen request shall designate the requested records with reasonable specificity. If the requested records or public body are excluded from the provisions of this chapter, the public body to which the request is directed shall within fourteen calendar days from the receipt of the request tender a written explanation as to why the records are not available to the requestor. Such explanation shall make specific reference to the applicable provisions of this chapter or other Code sections which make the requested records unavailable. In the event a determination of the availability of the requested records may not be made within the fourteen-calendar-day period, the public body to which the request is directed shall inform the requestor as such, and shall have an additional ten calendar days in which to make a determination of availability. A specific reference to this chapter by the requesting citizen in his records request shall not be necessary to invoke the time limits for response by the public body. The public body may make reasonable charges for the copying and search time expended in the supplying of such records; however, in no event shall such charges exceed the actual cost of the public body in supplying such records. Such charges for the supplying of requested records shall be estimated in advance at the request of the citizen.

(b) The following records are excluded from the provisions of this chapter:
(1) Memoranda, correspondence, evidence and complaints related to criminal investigations, reports submitted to the State and local police in confidence, and all records of persons imprisoned in a penal institution in this Commonwealth provided such records relate to the said imprisonment; provided, however, that information in the custody of law-enforcement officials relative to the identity of any individual other than a juvenile who is arrested and charged, and the status of the charge of arrest, shall not be excluded from the provisions of this chapter.

(2) Confidential records of all investigations of applications for licenses and all licensees made by or submitted to the Alcoholic Beverage Control Commission.

(3) State income tax returns, scholastic records and personnel records, except that such access shall not be denied to the person who is the subject thereof, and medical and mental records, except that such records can be personally reviewed by the subject person or a physician of the subject person's choice; provided, however, that the subject person's mental records may not be personally reviewed by such person when the subject person's treating physician has made a part of such person's records a written statement that in his opinion a review of such records by the subject person would be injurious to the subject person's physical or mental health or well-being. Where the person who is the subject of scholastic or medical and mental records is under the age of eighteen, his right of access may be asserted only by his parent or guardian, except in instances where the person who is the subject thereof is an emancipated minor or a student in a State-supported institution of higher education.

(4) Memoranda, working papers and correspondence held or requested by members of the General Assembly or by the office of the Governor or Lieutenant Governor, Attorney General or the mayor or other chief executive officer of any political subdivision of the Commonwealth or the president or other chief executive officer of any State-supported institutions of higher education.

(5) Memoranda, working papers and records compiled specifically for use in litigation and material furnished in confidence with respect thereto.

(6) Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment, or (iii) receipt of an honor or honorary recognition.

(7) Library records which can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

(8) Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, (iii) qualifications for any license or certificate issued by any public body.

As used in this subsection (8), "test or examination" shall include (i) any scoring key for any such test or examination, and (ii) any other document which would jeopardize the security of such test or examination. Nothing contained in this subsection (8) shall prohibit the release of test scores or results as provided by law, or to limit access to individual records as is provided by law, provided, however, that the subject of such employment tests shall be entitled to review and inspect all documents relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, such test or examination shall be made available to the public; provided, however, that minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

(9) Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Regulatory Boards or any board in that department on individual licensees or applicants; provided, however, that such material may be made available during normal working hours for copying, at the requestor's expense, by the individual who is subject thereof, in the offices of the Department of Health Regulatory Boards or in the offices of any health regulatory board, whichever may possess the material.

(10) Records of active investigations being conducted by the Department of Health Regulatory Boards or by any health regulatory board in the State.

(11) Memoranda, working papers and records recorded in or compiled exclusively for executive or closed meetings lawfully held pursuant to § 2.1-344.

(12) Proprietary information gathered by or for the Virginia Port Authority as provided
in § 62.1-132.4.

(c) Neither any provision of this chapter nor any provision of Chapter 26 (§ 2.1-377 et seq.) of this title shall be construed as denying public access to records of the position, job classification, official salary or rate of pay of, and to records of the allowances or reimbursements for expenses paid to any public officer, official or employee at any level of State, local or regional government in this Commonwealth whatsoever; provided, however, that the provisions of this subsection shall not apply to records of the official salaries or rates of pay of public employees whose annual rate of pay is ten thousand dollars or less.

§ 2.1-384. Systems to which chapter inapplicable.—The provisions of this chapter shall not be applicable to personal information systems:
1. Maintained by any court of this Commonwealth;
2. Which may exist in publications of general circulation;
3. Contained in the Criminal Justice Information System as defined in §§ 9-111.3 through 9-111.14;
5. Maintained by agencies concerning persons required to be licensed by law in this State to engage in the practice of any professional occupation, in which case the names and addresses of persons applying for or possessing any such license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing such licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided such disseminating agency is reasonably assured that the use of such information will be so limited;
6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission, and the Department of Alcoholic Beverage Control; and
7. Maintained by the police departments of cities, counties, and towns which deal with investigations and intelligence gathering relating to criminal activity; and
8. Maintained by the Virginia Port Authority as provided in § 62.1-132.4.

§ 9-109. Powers.—In addition to powers conferred upon the Commission elsewhere in this chapter, the Commission shall have power to:

1. Promulgate rules and regulations, pursuant to Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia, for the administration of this chapter including the authority to require the submission of reports and information by police officers within this State. Any proposed rules and regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof.

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer, (a) in permanent positions, and (b) in temporary or probationary status, and establish the time required for completion of such training.

3. Establish compulsory curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers, provided that the Virginia Port Authority Police Department shall be empowered to prescribe for port security personnel a different curriculum more suitable to specialized training needs.

3a) Establish compulsory training courses for law-enforcement officers in laws and procedures relating to entrapment, search and seizure, evidence and techniques of report writing, which training shall be completed by law-enforcement officers who have not completed the compulsory training standards set out in (2) hereof, prior to assignment of any such officers to undercover investigation work; provided, that failure to complete such training shall not, for that reason, constitute grounds to exclude otherwise properly admissible testimony or other evidence from such officer resulting from any undercover investigation.

4. Consult and cooperate with counties, municipalities, agencies of this State, other federal and State governmental agencies, and with universities, colleges, junior colleges, and other institutions, whether located in or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction.

5. Approve institutions, curriculum and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not.

5a) Establish compulsory minimum qualifications of certification and recertification for
individuals instructing in criminal justice training schools approved by the Commission.

(6) Make or encourage studies of any aspect of law-enforcement administration.

(7) Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement.

(8) Make recommendations concerning any matter within its purview pursuant to this chapter.

(9) [Repealed.]

(10) Adopt and amend rules and regulations, consistent with law, for its internal management and control.

(11) Enter into contracts or do such things as may be necessary and incidental to the administration of its authority pursuant to this chapter.

(12) Coordinate its activities with those of any interstate system for the exchange of criminal history record information, to nominate one or more of its members to serve upon the council or committee of any such system, and to participate when and as deemed appropriate in any such system's activities and programs.

(13) Conduct such inquiries and investigations as it deems appropriate to carry out its functions under this chapter and, in conducting such inquiries and investigations, the Commission shall have the authority to require any criminal justice agency to submit to the Commission information, reports, and statistical data with respect to its policy and operation of information systems or with respect to its collection, storage, dissemination, and usage of criminal history record information and correctional status information, and such criminal justice agencies shall submit to the Commission such information, reports, and data as are reasonably required.

(14) Conduct a continuing study and review of questions of individual privacy and confidentiality of criminal history record information and correctional status information.

(15) Conduct audits as required by § 9-111.5.

(16) Advise criminal justice agencies and to initiate educational programs for such agencies with respect to matters of privacy, confidentiality, and security as they pertain to criminal history record information and correctional status information.

(17) Maintain a liaison with any board, commission, committee, or other body which may be established by law, executive order, or resolution to regulate the privacy and security of information collected by the Commonwealth or any political subdivision thereof.

(18) Issue regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information and the privacy, confidentiality, and security thereof necessary to implement State and federal statutes, federal regulations, and court orders.

(19) The Department of State Police shall be the control terminal agency for the Commonwealth and perform all functions required of a control terminal agency by the rules and regulations of the National Crime Information Center. Notwithstanding anything to the contrary in this article, the Central Criminal Records Exchange and the Department of State Police shall remain the central repository for criminal history record information in the Commonwealth and the Department shall continue to be responsible for the management and operation of such exchange.

§ 62.1-128. Authority created.— The Division of Ports of the Department of Conservation and Development is hereby abolished. The Virginia State Ports Port Authority, hereinafter referred to as the Authority, is created as a body corporate and as such shall have, and is hereby vested with, the powers and duties hereinafter conferred in this chapter which Authority, on and after July one, nineteen hundred seventy, shall be known and designated as the Virginia Port Authority.

§ 62.1-129. Board of Commissioners; members and officers; Executive Director; agents and employees.—All powers, rights and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of Commissioners of the Virginia Port Authority, hereinafter referred to as Board or Board of Commissioners. The Board shall consist of eleven members to be appointed by the Governor, subject to confirmation by the General Assembly, and who shall serve at the pleasure of the Governor, for terms as follows: Three appointments made in nineteen hundred seventy to increase the size of the Board shall be for terms of four years and one such appointment shall be for a term of six years; one of the current terms ending in nineteen hundred seventy shall be filled by an appointment for a term of four years and the other shall be filled by an appointment for a term of six years; the appointment made to fill the current term ending in nineteen hundred seventy-three shall be for a term of three years; one of the terms ending in nineteen hundred seventy-four shall be filled by an appointment for a term of two years and the other shall be filled by an appointment for a term of four years; the appointments made to fill the current terms ending in nineteen hundred
The IB exercise facilities located within the cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, or Virginia Beach shall be kept, and the Roads Port Commission or the former Division of the Virginia Port Authority shall be established a branch of the Port Authority of the State of Virginia, and the Board of Commissioners established hereunder shall have such powers and duties as may be necessary to enable the Authority to attract and retain a capable Executive Director. The Executive Director shall employ or retain such other agents or employees subordinate to the Executive Director as may be necessary, subject to the Board’s approval. The Board shall elect from its membership the chairman and the vice-chairman and may elect from its membership or appoint from its staff a secretary and a treasurer, and prescribe their powers and duties.

The chief executive officer of the Authority, who shall not be a member of the Board, shall be known as the Executive Director. The Executive Director shall be appointed by the Governor, subject to confirmation by the General Assembly, and shall serve at the pleasure of the Governor. The Executive Director’s compensation from the State shall be fixed by the Board in accordance with law. This compensation shall be established at a level which will enable the Authority to attract and retain a capable Executive Director. The Executive Director shall employ or retain such other agents or employees subordinate to the Executive Director as may be necessary subject to the Board’s approval. The Board shall elect from its membership the chairman and the vice-chairman and may elect from its membership or appoint from its staff a secretary and a treasurer, and prescribe their powers and duties.

The Board may also appoint from the staff an assistant secretary and an assistant treasurer, who shall, in addition to other duties, discharge such functions of the secretary and treasurer, respectively, as may be directed by the Board.

§ 62.1-130. Powers and duties of Executive Director.—The Executive Director shall employ or retain such other agents or employees subordinate to the Executive Director as may be necessary, subject to the Board’s approval. The Executive Director shall also exercise such of the powers and duties relating to ports conferred upon the Board as may be delegated to him by the Board, including powers and duties involving the exercise of discretion. The Executive Director shall also exercise and perform such other powers and duties as may be lawfully delegated to him, and such powers and duties as may be conferred or imposed upon him by law.

§ 62.1-131. Office and branch offices; title to property. The Authority shall, in the Hampton Roads Area, have and maintain its principal office, at which all of its records shall be kept, and from which its business shall be transacted. It may, if necessary, establish a branch office or offices within or without this State or the United States. The title to all property of every kind belonging to the former Hampton Roads Port Commission or the former State Port Authority of Virginia shall hereby vest in the Commonwealth of Virginia for the Virginia Port Authority.

§ 62.1-132. Local authorities subordinate to Authority.—In order to promote the development and the physical and administrative coordination and unification of the port facilities within the cities and towns of this State, located upon any of the navigable tidal waters therein, and the proper cooperation between such cities and towns with respect to such facilities located within the State, the boards of municipal dock commissioners heretofore existing shall continue in effect in accordance with the laws creating them, the only effects of this section on such laws being that the boards shall henceforth be known as boards of municipal port commissioners and that the exercise of their authority shall be in subordination to the authority conferred upon the Board of Commissioners by this chapter, and any conflict between the any authority granted to the several port cities and towns or other entity entities of this State Commonwealth, or the exercise of that authority, and the exercise of the authority granted to such the Board of Commissioners under this chapter.
shall be resolved in favor of the exercise of such authority by the Board of Commissioners.

There is hereby created an Executive Council of the several local municipal port authorities. The membership of the Executive Council shall consist of the chief executive officer or his designee and the chairman of the Board of his designee of the local port authority of each of Virginia's municipal port cities. The Executive Council shall assist in achieving an orderly and efficient unification of Virginia's port facilities by meeting quarterly or more frequently, as desired with the Executive Director of the Authority and from time to time with the Board of Commissioners of said Authority, and advising on port matters generally and especially with respect to the following:

1. Uniformity of port rates, practices and maximum utilization of all facilities and promoting a spirit of cooperation among the port cities in the interest of Virginia as a whole;
2. The development of the ports of Virginia and keeping the Executive Director of the Authority informed as to present and future needs of the ports of Virginia;
3. The location and scope of new terminal facilities; and
4. A unified program of trade development, statistical research and public relations.

The powers and functions of the Executive Council shall be advisory only.

§ 62.1-132.1. General powers.—The Authority is vested with the powers of a body corporate. It may sue and be sued, make contracts, adopt and use a common seal, and alter such seal at its pleasure.

§ 62.1-132.2. Bylaws and organization.—The Authority shall have the power to adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. Such bylaws, rules, and regulations may provide for such committees and their functions as the Authority may deem necessary or expedient.

§ 62.1-132.3. Stimulation of commerce.—It shall be the duty of the Authority, on behalf of the Commonwealth, to foster and stimulate the commerce of the ports of the Commonwealth, to promote the shipment of goods and cargoes through the ports, to seek to secure necessary improvements of navigable tidal waters within the Commonwealth, and in general to perform any act or function which may be useful in developing, improving, or increasing the commerce, both foreign and domestic, of the ports of the Commonwealth.

§ 62.1-132.4. Rates and rate structures.—The Authority shall have power to establish a traffic bureau or other office to investigate and seek improvement in any rates, rate structures, practices, and charges affecting or tending to affect the commerce of the ports of the Commonwealth. Notwithstanding any provision of law to the contrary, the Authority shall not disclose proprietary information and data furnished to it in confidence, including but not limited to ship tally sheets, ship manifests, and other information relating to tonnages and cargoes.

§ 62.1-132.5. Planning.—The Authority shall initiate and further plans for the development of the ports of the Commonwealth, and, to this end, shall keep informed as to the present requirements and likely future needs of those ports.

§ 62.1-132.6. Powers not restrictive.—The Authority shall have the power to perform any act or carry out any function not inconsistent with State law, whether included in the provisions of this chapter, which may be, or tend to be, useful in carrying out the provisions of this chapter.

§ 62.1-132.7. Employment of personnel and legal counsel.—A. Subject to the provisions of Chapter 10 (§ 2.1-110 et seq.) of Title 2.1 of the Code of Virginia, the Authority may appoint, employ, dismiss, fix and pay compensation of employees within and without the Commonwealth and the United States without regard to whether such employees are citizens of the United States.

B. The Authority may retain legal counsel, subject to the approval of the attorney general, to represent the Authority in rate cases and all other hearings, controversies, or matters involving the interests of the Authority.

§ 62.1-132.8. Consolidation of terminal operations.—The Authority shall effect consolidation of the water terminals of the several cities within the ports of the Commonwealth. It, specifically, shall bring about the centrally directed operation of all State-owned port facilities at Hampton Roads by such means as may prove necessary or desirable, not inconsistent with State law.

§ 62.1-132.9. Foreign trade zones.—The Authority is empowered to develop, maintain, and operate foreign trade zones under such terms and conditions as are or may be prescribed by law.

§ 62.1-132.10. Publications of Authority.—A. The Authority may issue periodicals and carry and charge for advertising therein.
B. The Authority may compile and disseminate in a single publication all port charges, rules, and practices in effect at the several ports in the Commonwealth.

§ 62.1-132.11. Police powers; penalties.—The Authority is empowered to adopt and enforce reasonable rules and regulations governing (i) the maximum and minimum speed limits of motor vehicles using Authority property, (ii) the kinds and sizes of vehicles which may be operated upon Authority property, (iii) materials which shall not be transported through or over Authority property, and (iv) other matters affecting the safety and security of Authority property. Such rules and regulations shall have the force and effect of law (i) after publication one time in full in a newspaper of general circulation in the city or county where the affected property is located, and (ii) when posted where the public using such property may conveniently see them. Violation of any rule or regulation which would have been a violation of law or ordinance if committed on a public street or highway shall be tried and punished as if it had been committed on a public street or highway. Any other violation of such rules and regulations shall be punishable as a Class 1 misdemeanor.

§ 62.1-132.12. Employment, jurisdiction, and power of special police officers.—A. The Authority may appoint and employ special police officers to enforce the laws of the Commonwealth and rules and regulations adopted pursuant to § 62.1-132.11 on Authority property. Such special police officers shall have the powers vested in police officers under §§ 15.1-138 and 52-8 of the Code of Virginia. Such special police officers may issue summons to appear, or arrest on view or on information without warrant as permitted by law, and conduct before the court of the city or county of competent jurisdiction any person violating, upon property under the control of the Authority, any rule or regulation of the Authority, any law of the Commonwealth, or any ordinance or regulation of any political subdivision of the Commonwealth.

B. The court or courts having jurisdiction for the trial of criminal offenses of the city or county wherein the offense was committed shall have jurisdiction to try persons charged with violating any such laws, ordinances, rules, or regulations. Fines and costs assessed or collected for violation of any such law, ordinance, rule, or regulation shall be paid into the Literary Fund.

§ 62.1-132.13. Cooperation with federal agencies.—The Authority is empowered to cooperate with, and to act as an agent for, the United States of America or any agency, department, corporation or instrumentality thereof in the maintenance, development, improvement, and use of harbors and seaports of the Commonwealth, and in any other matter within the purposes, duties, and powers of the Authority.

§ 62.1-132.14. Agreement of local cooperation with Corps of Engineers.—The Authority is empowered, on behalf of and as an agent for the Commonwealth, with the approval of the Governor and after review by the Attorney General, to enter into contractual agreements, known as agreements of local cooperation, developed and tendered by the United States Army Corps of Engineers for signature by local nonfederal interests.

§ 62.1-132.15. Grants and loans from federal agencies.—The Authority may apply for and accept grants or loans of money or property from any federal agency for any purpose authorized in this chapter. It may expend or use such money or property in accordance with any directions, requirements, or conditions which may be imposed by the agency.

§ 62.1-132.16. Fees and charges.—Under such terms and conditions as may be prescribed by law, the Authority may fix, alter, charge, and collect tolls, fees, rentals, and any other charges for the use of, or for services rendered by, any Authority facility. The Authority may impose, levy, and collect such other fees and charges as may assist in defraying the expenses of administration, maintenance, development, or improvement of the ports of the Commonwealth, their cargo handling facilities, and harbors.

§ 62.1-132.17. Grants of funds and property.—Persons, counties, cities, and towns are hereby authorized to grant, and the Authority is empowered to accept, funds and property to use, within the scope of other powers and duties of the Authority, as stipulated by the grantor.

§ 62.1-132.18. Acquisition of property.—A. The Authority is authorized to acquire, construct, maintain, equip, and operate marine terminals, port facilities, wharves, docks, ships, piers, quays, elevators, compressors, refrigeration storage plants, warehouses, and other structures necessary for the convenient use of the same in the aid of commerce. The Authority is further authorized to undertake or make arrangements for the dredging of approaches to each facility and the construction of shipping facilities and transportation facilities incident thereto. The Authority shall have the power to issue revenue bonds for such acquisitions and purposes.

B. When such facilities or equipment is acquired from any political subdivision of the Commonwealth, the Authority is authorized to give written assurances, including
agreements to reconvey properties to such political subdivision, for the installment payments for any terminals, facility, or equipment thus acquired.

§ 62.1-132.18. Acquisition and lease of property.—A. The Authority is empowered to rent, lease, buy, own, acquire, construct, reconstruct, and dispose of harbors, seaports, port facilities, and such property, whether real or personal, as it may find necessary or convenient and issue revenue bonds therefor without pledging the faith and credit of the Commonwealth.

B. The Authority may lease to another such part or all of its real or personal property for such period and upon such terms and conditions as the Authority may determine.

C. The Authority shall neither expend funds nor incur any indebtedness for any improvement, repair, maintenance, or addition to any real or personal property owned by anyone other than the Authority, the Commonwealth, or a political subdivision of the Commonwealth, unless either (i) the use of such property is guaranteed to the Authority or the Commonwealth by a lease extending beyond the useful life of the improvement, repair, maintenance, addition, or new facility, or (ii) such expenditure or indebtedness is approved in writing by the Governor.

§ 62.1-136. Power of eminent domain.—The Authority is hereby vested with the power of eminent domain to acquire property or any interest therein, however held, but not property of the State or its agencies, and may exercise the same for the purposes set forth in § 62.1-135 §§ 62.1-132.18 and 62.1-132.19 in the manner and to the extent set forth in, and subject to the provisions of, Title 25 of the Code of Virginia; provided that the Authority shall have no power to condemn any property belonging to any other political subdivision of the Commonwealth, or to any common carrier, or public utility or other public service corporation which is being devoted to public use or service. Whether property is being devoted to public use or service in the case of a public service corporation, common carrier, or public utility, shall be decided by the State Corporation Commission in a proceeding under § 25-233; and in the case of a political subdivision shall be decided by the court in which the proceeding is brought.

§ 62.1-140. Definitions; bond resolution; form and requisites of bonds; sale and disposition of proceeds; temporary bonds.—(A) As used in this section and in §§ 62.1-135 through 62.1-146, the words “port facility” shall mean harbors, seaports and all facilities used in connection therewith and shall include all those facilities named in §§ 62.1-134 (b), 62.1-135 (b) and 62.1-135 (c) 62.1-132.18 and 62.1-132.19

The word “cost” as used in this chapter shall embrace the cost of construction, the cost of the acquisition of all land, rights-of-way, property, rights, easements and interests acquired by the Authority for such construction, the cost of all machinery and equipment, financing charges, interest prior to and during construction and, if deemed advisable by the Authority, for one year after completion of construction, engineering and legal expenses, cost of plans, specifications, surveys and estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing any port facility, administrative expense, the creation of a working capital fund for placing the port facility in operation and such other expense as may be necessary or incident to the construction of such port facility, the financing of such construction and the placing of the same in operation.

(B) The Authority is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of any Authority project for the acquisition, construction, reconstruction or control of port facilities or of any portion or portions thereof. The principal and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at the prevailing rate of interest at the time, shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. The bonds shall be signed by the Executive Director of the Authority or shall bear his facsimile signature, and the official seal of the Authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the secretary of the Authority, and any coupons attached thereto shall bear the facsimile signature of the Executive Director of the Authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such
bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this chapter shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine will best effect the purposes of this chapter.

The proceeds of the bonds of each issue shall be used solely for the payment of the cost of acquisition, construction, reconstruction and control of port facilities or the portion thereof for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds, or, if such bonds shall have been issued for paying the cost of a portion of the project, such surplus may be applied to the payment of the cost of any remaining portion of the project.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this chapter without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this chapter.

COMPACT

BETWEEN THE

States of New York and New Jersey

1921

For the Creation of the "Port of New York District" and the Establishment of the "Port of New York Authority" for the Comprehensive Development of the Port of New York

Entered Into Pursuant to Chapter 154, Laws of New York, 1921; Chapter 151, Laws of New Jersey, 1921
WHEREAS, In the year eighteen hundred and thirty-four the states of New York and New Jersey did enter into an agreement fixing and determining the rights and obligations of the two states in and about the waters between the two states, especially in and about the bay of New York and the Hudson river; and

WHEREAS, Since that time the commerce of the port of New York has greatly developed and increased and the territory in and around the port has become commercially one center or district; and

WHEREAS, It is confidently believed that a better co-ordination of the terminal, transportation and other facilities of commerce in, about and through the port of New York, will result in great economies, benefiting the nation, as well as the states of New York and New Jersey; and

WHEREAS, The future development of such terminal, transportation and other facilities of commerce will require the expenditure of large sums of money and the cordial co-operation of the states of New York and New Jersey in the encouragement of the investment of capital, and in the formulation and execution of the necessary physical plans; and

WHEREAS, Such result can best be accomplished through the co-operation of the two states by and through a joint or common agency.

Now, therefore, The said states of New Jersey and New York do supplement and amend the existing agreement of eighteen hundred and thirty-four in the following respects:
ARTICLE I.

They agree to and pledge, each to the other, faithful co-operation in the future planning and development of the port of New York, holding in high trust for the benefit of the nation the special blessings and natural advantages thereof.

ARTICLE II.

To that end the two states do agree that there shall be created and they do hereby create a district to be known as the “Port of New York District” (for brevity hereinafter referred to as “The District”) which shall embrace the territory bounded and described as follows:

The district is included within the boundary lines located by connecting points of known latitude and longitude. The approximate courses and distances of the lines enclosing the district are recited in the description, but the district is determined by drawing lines through the points of known latitude and longitude. Beginning at a point A of latitude forty-one degrees and four minutes north and longitude seventy-three degrees and fifty-six minutes west, said point being about sixty-five hundredths of a mile west of the westerly bank of the Hudson river and about two and one-tenth miles northwest of the pier at Piermont, in the county of Rockland, state of New York; thence south one and fifteen-hundredths miles to a point B of latitude forty-one degrees and three minutes north and longitude seventy-three degrees and fifty-six minutes west; said point being about one and three-tenths miles northwest of the pier at Piermont, in the county of Rockland, state of New York; thence south fifty-six degrees and thirty-four minutes west six and twenty-six hundredths miles to a point C of latitude forty-one degrees and no minutes north and longitude seventy-four degrees and twelve minutes west, said point being about three miles northwest of the business center of the city of Paterson, in the county of Passaic, state of New Jersey; thence south forty-seven degrees and seventeen minutes west eleven and eighty-seven-hundredths miles more or less to a point D of latitude forty degrees and fifty-seven minutes north and longitude seventy-four degrees and twenty-two minutes west, said point being about three and five-tenths miles southwest of the Borough of Caldwell, in the county of Morris, state of New Jersey; thence due north nine and twenty-hundredths miles to a point E of latitude forty degrees and fifty-two minutes north and longitude seventy-four degrees and twenty-two minutes west, said point being about one and two-tenths miles southwest of the passenger station of the Delaware,
The boundaries of said district may be changed from time to time by the action of the legislature of either state concurred in by the legislature of the other.

ARTICLE III.

There is hereby created "The Port of New York Authority" (for brevity hereinafter referred to as the "Port Authority"), which shall be a body corporate and politic, having the powers and jurisdiction hereinafter enumerated, and such other and additional powers as shall be conferred upon it by the legislature of either state concurred in by the legislature of the other, or by act or acts of congress, as hereinafter provided.

ARTICLE IV.

The port authority shall consist of six commissioners — three resident voters from the state of New York, two of whom shall be resident voters of the city of New York, and three resident voters from the state of New Jersey, two of whom shall be resident voters within the New Jersey portion of the district, the New York members to be chosen by the state of New York and the New Jersey members by the state of New Jersey in the manner and for the terms fixed and determined from time to time by the legislature of each state respectively, except as herein provided.

Each commissioner may be removed or suspended from office as provided by the law of the state for which he shall be appointed.

ARTICLE V.

The commissioners shall, for the purpose of doing business, constitute a board and may adopt suitable by-laws for its management.

ARTICLE VI.

The port authority shall constitute a body, both corporate and politic, with full power and authority to purchase, construct, lease and/or operate any terminal or transportation facility within said district; and to make charges for the use thereof; and for any of such purposes to own, hold, lease and/or operate real or personal property, to borrow money and secure the same by bonds or by mortgages upon any property held or to be held by it. No property now or hereafter vested in or held by either state, or by any county, city, borough, village, township or other municipality, shall be taken by the port authority, without the authority or consent of such state, county, city, borough, village, township or other municipality, nor shall anything herein impair or invalidate in any way any bonded indebtedness of such state, county, city, borough, village, township or other municipality, nor impair the provisions of law regulating the payment into
ARTICLE XII.

The port authority may from time to time make recommendations to the legislatures of the two states or to the congress of the United States, based upon study and analysis, for the better conduct of the commerce passing in and through the port of New York, the increase and improvement of transportation and terminal facilities therein, and the more economical and expeditious handling of such commerce.

ARTICLE XIII.

The port authority may petition any interstate commerce commission (or like body), public service commission, public utilities commission (or like body), or any other federal, municipal, state or local authority, administrative, judicial or legislative, having jurisdiction in the premises, after the adoption of the comprehensive plan as provided for in article X for the adoption and execution of any physical improvement, change in method, rate of transportation, system of handling freight, warehousing, docking, lightering or transfer of freight, which, in the opinion of the port authority, may be designed to improve or better the handling of commerce in and through said district, or improve terminal and transportation facilities therein. It may intervene in any proceeding affecting the commerce of the port.

ARTICLE XIV.

The port authority shall elect from its number a chairman, vice-chairman, and may appoint such officers and employees as it may require for the performance of its duties, and shall fix and determine their qualifications and duties.

ARTICLE XV.

Unless and until the revenues from operations conducted by the port authority are adequate to meet all expenditures, the legislatures of the two states shall appropriate, in equal amounts, annually, for the salaries, office and other administrative expenses, such sum or sums as shall be recommended by the port authority and approved by the governors of the two states, but each state obligates itself hereunder only to the extent of one hundred thousand dollars in any one year.

ARTICLE XVI.

Unless and until otherwise determined by the action of the legislatures of the two states, no action of the port authority shall be binding unless taken at a meeting at which at least two members from each state are present and unless four votes are cast therefor, two from each state. Each state reserves the right hereafter to provide by law for the exercise of a veto power by the governor thereof over any action of any commissioner appointed therefrom.
or other storage elevators, warehouses, cold storage, tracks, yards, sheds, switches, connections, overhead appliances, and every kind of terminal or storage facility now in use or hereafter designed for use for the handling, storage, loading or unloading of freight at steamship, railroad or freight terminals. "Railroads" shall include railways, extensions thereof, tunnels, subways, bridges, elevated structures, tracks, poles, wires, conduits, power houses, substations, lines for the transmission of power, car-barns, shops, yards, sidings, turn-outs, switches, stations and approaches thereto, cars and motive equipment. "Facility" shall include all works, buildings, structures, appliances and appurtenances necessary and convenient for the proper construction, equipment, maintenance and operation of such facility or facilities or any one or more of them. "Real property" shall include land under water, as well as uplands, and all property either now commonly or legally defined as real property or which may hereafter be so defined. "Personal property" shall include choses in action and all other property now commonly or legally defined as personal property or which may hereafter be so defined. "To lease" shall include to rent or to hire. "Rule or regulation," until and unless otherwise determined by the legislatures of both states, shall mean any rule or regulation not inconsistent with the constitution of the United States or of either state, and, subject to the exercise of the power of congress, for the improvement of the conduct of navigation and commerce within the district, and shall include charges, rates, rentals or tolls fixed or established by the port authority; and until otherwise determined as aforesaid, shall not include matters relating to harbor or river pollution. Wherever action by the legislature of either state is herein referred to, it shall mean an act of the legislature duly adopted in accordance with the provisions of the constitution of the state.

Plural or singular. The singular wherever used herein shall include the plural.

Consent, approval or recommendation of municipality; how given. Wherever herein the consent, approval or recommendation of a "municipality" is required, the word "municipality" shall be taken to include any city or incorporated village within the port district, and in addition in the state of New Jersey any borough, town, township or any municipality governed by an improvement commission within the district. Such consent, approval or recommendation whenever required in the case of the city of New York shall be deemed to have been given or made whenever the board of estimate and apportionment of said city or any body hereafter succeeding to its duties shall by majority vote pass a resolution expressing such consent, approval or recommendation; and in the case of any municipality now or hereafter governed by a commission, whenever the commission thereof shall by a majority vote pass such a resolution; and in all other cases whenever the body authorized to grant consent to the use of the streets or highways of such municipality shall by a majority vote pass such a resolution.
TERM SHEET FOR THE FORMATION OF
THE PORTS OF PHILADELPHIA AND CAMDEN, INC.
(November 12, 1993, Revised December 10, 1993)

Proposed Name The Ports of Philadelphia and Camden, Inc. (the "Service Corp.")

Corporate Form Pennsylvania nonprofit corporation

Parties to Formation
A) Delaware River Port Authority ("DRPA")
B) Philadelphia Regional Port Authority ("PRPA")
C) South Jersey Port Corporation ("SJPC")

Purpose The Service Corp. shall be formed (1) to facilitate and coordinate certain port services currently provided by the DRPA, the PRPA, and the SJPC, and (2) after the 2 year transition period, to provide regional port services and operations within the bi-state territory of the DRPA.

Board Structure A) The Board of the Service Corp. (the "Board") shall be comprised of 18 members:

1) Nine (9) Pennsylvania Board members, and
2) Nine (9) New Jersey Board members.

Board Membership A) The 9 Pennsylvania Board members shall not be elected public officials and shall be appointed as follows:

1) Three members to be appointed by the Governor of Pennsylvania.
2) One member to be appointed by the President pro tempore of the Pennsylvania Senate.
3) One member to be appointed by the Minority Leader of the Pennsylvania Senate.
4) One member to be appointed by the Speaker of the Pennsylvania House of Representatives.
5) One member to be appointed by the
Minority Leader of the Pennsylvania House of Representatives.

6) One member representing the City of Philadelphia to be appointed by the Governor of Pennsylvania from a list of 3 names submitted by the Mayor of Philadelphia.

7) One member, who shall be a DRPA Board member, to be selected by the Pennsylvania members of the DRPA Board.

B) The 9 New Jersey Board members shall be appointed as follows:

The founding Board members for New Jersey shall be the seven (7) SJPC Board members and two persons the New Jersey DRPA Commissioners shall choose from among themselves. These persons shall serve until the initial appointments are made by the Governor.

The Governor shall appoint nine members, each of whom shall be a resident of the port district, who shall have been a qualified elector therein for at least the 3 years immediately preceding his appointment. For the purpose of representation on the Board, the port district shall be divided into subdistricts with representation as follows:

(a) The counties of Cape May, Cumberland and Salem shall constitute one subdistrict and shall be represented by two members on the Board who shall be appointed from these counties.

(b) The counties of Camden and Gloucester shall constitute one subdistrict and shall be represented by four members on the Board, at least three of whom shall be appointed from Camden county.

(c) The counties of Burlington and Mercer shall constitute one subdistrict and shall be represented by three members on the Board at least one of whom shall be appointed from each county within this subdistrict.

No more than five Board members representing New Jersey shall be members of the same political party. Each member of the Board shall be appointed by the Governor, with the advice and consent of the Senate, for a term of 4 years and shall serve until his successor is appointed and
has qualified. The term of each of the first appointees hereunder shall be designated by the Governor. Each member of the corporation may be removed from office by the Governor or by the Legislature, for cause, after a public hearing. Each member of the corporation before entering upon his duties shall take and subscribe an oath to perform the duties of his office faithfully, impartially and justly to the best of his ability. A record of such oaths shall be filed in the office of the Secretary of State.

(d) Any vacancies in the membership of the corporation occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

Terms of Board Members

A) The terms of the New Jersey Board members shall be 4 years and shall be staggered. All New Jersey Board members shall continue to serve until their successors are appointed and qualified.

B) The terms of the Pennsylvania Board members appointed by the leaders of the Pennsylvania Legislature shall be concurrent with the terms of their respective appointing authorities. The terms of the Pennsylvania Board members appointed by the Governor of Pennsylvania shall be 4 years, such terms to commence from the date of appointment. All Pennsylvania Board members shall continue to serve until their successors are appointed and qualified. Pennsylvania Board members may be removed by their respective appointing authority prior to the expiration of their terms.

Chairperson

A member of the Board from one of the States shall serve as the Chairperson and another member of the Board from the other State shall serve as the Vice Chairperson each for a one-year term. These persons shall be designated by the Governor of their respective States. The initial Chairperson shall be a New Jersey board member while the initial Vice Chairperson shall be a Pennsylvania board member. In the next term, the Chairperson shall be a Pennsylvania board member and the Vice Chairperson a New Jersey board member. This rotation shall continue for the life of the corporation. If a vacancy shall occur in the position of Chairperson or Vice Chairperson,
the State who that person represents shall have the right to name the replacement Chairperson or Vice Chairperson to fill out the unexpired term.

Board Action

A) All Board actions, except for actions concerning procedural and non-substantive matters, shall require the affirmative vote of a "qualified majority" of the Board. A qualified majority of the Board shall mean a majority of the Board which includes at least 10 members of the Board, consisting of:

1) At least 5 of the 9 New Jersey Board members appointed by the New Jersey Governor; and

2) 3 of the 4 Pennsylvania Board members appointed by the leaders of the Pennsylvania Legislature and 2 of the 3 Pennsylvania Board members appointed by the Pennsylvania Governor (exclusive of the member recommended by the Mayor of Philadelphia).

Deadlock

A) In the event a deadlock should occur with respect to any matter coming before the Board, either the Pennsylvania Board members or the New Jersey Board members shall have the right to dissolve the Service Corp. as discussed below.

B) Before dissolving the Service Corp. as the result of a Board deadlock on matters requiring a qualified majority vote, a nonbinding opinion regarding the subject matter of the deadlock must be obtained from a national expert on port matters chosen by the Board. In the event the Board cannot agree on a single expert, such expert shall be chosen as follows: the Pennsylvania Board members shall choose one expert and the New Jersey Board members shall choose one expert; these two experts shall then agree on a third expert who shall be solely responsible for issuing the nonbinding opinion.

Dissolution

A) The Service Corp. may be dissolved at any time by a qualified majority vote of either the Pennsylvania Board members or the New Jersey Board members. In the event the Pennsylvania Board members vote to dissolve the Service Corp., such dissolution must be approved by the Governor of Pennsylvania, and any three of the President pro tempore of the Pennsylvania Senate, the Speaker of the Pennsylvania House of
Representatives, and the minority leader of both the Pennsylvania Senate and House. In the event the New Jersey Board members vote to dissolve the Service Corp., such dissolution must be approved by the Governor of New Jersey.

B) In the event of a dissolution, the assets originally contributed by or leased by the respective states will be returned to those states. Any capital assets acquired by the Service Corp. directly would be sold and the proceeds thereof (after the repayment of any debt thereon) would be distributed equally to each state. The state wherein any property is actually located would have the right of first refusal to purchase such properties.

A) The Executive Director of the Service Corp. shall be chosen by a qualified majority of the Service Corp. Board.

B) The Executive Director’s term shall be for a period not to exceed three (3) years; such period to be determined by a qualified majority of the Service Corp. Board. Such term may be renewed upon approval by a qualified majority of the Service Corp. Board.

C) Neither the Pennsylvania Board members nor the New Jersey Board members shall have the right to unilaterally remove the Executive Director.

A) During the transition period, which shall not exceed two years, the PRPA and the SJPC shall continue to operate their own facilities except for the services to be provided by the Service Corp., which services shall include the following:

1) Coordination and implementation of port-wide environmental compliance and, where necessary, advocating environmental policies affecting port operations.

2) Coordination and study concerning planned dredging of the Delaware River.

3) Coordination and implementation of port-wide facility security.

4) Coordination and dissemination of information concerning prospective clients,
economic development, and environmental issues.

5) During its first year of operation, and in conjunction with the DRPA, the PRPA, and the SJPC, establish a five-year Business Plan (which shall provide for periodic updates) for regional port development, including a plan for: (i) operating facilities and capital improvements; (ii) marketing and business development (including the final selection of a name for the Service Corp.); (iii) preserving existing jobs and creating new job opportunities; (iv) developing public sector policy for regional port labor issues and developing liaisons with terminal operators and stevedores; (v) obtaining specific commitments and proposals for operating and capital funds from each of the participating entities; and (vi) providing detailed operating and control structures and organization for the entity which would control the facilities and business of the PRPA and the SJPC. The Business Plan for regional port development in connection with ultimate implementation shall be subject to the approval of the DRPA, the PRPA, and the SJPC Boards.

6) Coordinate port marketing efforts in the following manner:

a) During the 2 year transition period, the Service Corp.'s marketing services shall be contracted from the PRPA, which shall serve as the marketing agent (the "Marketing Agent") for the Service Corp., and which shall regularly consult with a representative of the SJPC with respect to these activities, subject to the supervision of the Board.

b) The employees of the DRPA's World Trade Division shall become employees of the Service Corp., upon its formation, under the direction of the Marketing Agent.

7) With respect to the preservation of existing staff jobs and the creation of new job opportunities, the PRPA, the SJPC, the DRPA, and the Service Corp. shall not terminate any employees due to any of the actions taken pursuant to the matters
contemplated by this Term Sheet including, without limitation, unification.

8) Any other services as agreed to by the Board.

Funding

The DRPA shall provide all capital and, to the extent required, operating funds for the Service Corp.

Facilities

A) After the transition and upon the full implementation of unification, the PRPA and the SJPC each shall lease all of their facilities, including the Beckett Street Terminal, to the Service Corp. pursuant to separate master net leases.

B) Such facilities shall at all times remain the property of the respective state authorities and the proceeds of the sale of any such facilities shall be retained by the appropriate state.

C) Both the PRPA and the SJPC shall retain the right to withdraw any and all of their assets from the Service Corp.'s master lease for non- port purposes without any consideration being paid therefor to the Service Corp.

D) Both the PRPA and the SJPC shall retain the right to add additional facilities to the Service Corp.'s master lease with the affirmative vote of a qualified majority of the Service Corp. Board.

E) Facilities built by the PRPA or the SJPC after a Board deadlock on the issue of building a facility can be added to the master lease without Board approval as long as the applicable state authority pays for any and all costs related to the new facility.

F) After the transition and upon the full implementation of unification, DRPA shall transfer to Service Corp., without limitation as to other operations to be transferred, all of the AmeriPort operations. Thereafter, Service Corp. will have full responsibility for AmeriPort operations.

Headquarters

Philadelphia
Protocol for New Cargo
A) During the 2 year transition period, cargo that is currently being serviced at the respective facilities of the PRPA and the SJPC shall remain at those facilities. The Service Corp. shall develop, as soon as possible, a protocol which shall provide the basis for coordination and cooperation between the PRPA and the SJPC for existing cargo and for any new cargo coming into the port during the 2 year transition period.

Subsidies
A) During the 2 year transition period, Pennsylvania and New Jersey will continue to subsidize their respective port operations.

B) DRPA shall have responsibility for providing operating subsidies to the Service Corp. In the event operating subsidies from the DRPA are insufficient, Pennsylvania and New Jersey shall provide operating subsidies to the Service Corp. in equal amounts, subject to the exercise of any other remedy which may be available to them.

Gubernatorial Veto Power
A) The Governor of New Jersey shall not have the right to veto actions taken by the Service Corp. Board. If the New Jersey Governor vetoes an action of the DRPA Board relating to the Service Corp. or other regional port matters, including, but not limited to, funding for the Service Corp., such veto shall be deemed a request for dissolution of the Service Corp.

Approval of Documentation
A) All documents evidencing and implementing the Service Corp. and the Business Plan shall be subject to final approval of the DRPA, the PRPA, and the SJPC Boards. This requirement shall be applicable to both the transition documents and the ultimate implementing documents.

B) This Term Sheet shall be submitted for approval to the PRPA Board and the SJPC Board within thirty (30) calendar days of the date hereof.

(C) All documents and transactions contemplated hereby shall comply with all applicable laws, regulations, indentures and agreements applicable to or entered into by the DRPA, PRPA and SJPC.
PORT OF DULUTH-SUPERIOR
AN ACT to ratify, enact into law and enter into the Seaway Port of Duluth-Superior Compact and relating to creating the Seaway Port Authority of Duluth-Superior and providing for representation of this state on the port authority created by the compact.

Analysis by the Legislative Reference Bureau

This is a preliminary draft prepared for Senator Theno at the request of the commission on interstate cooperation. It is not ready for introduction as it contains only the first draft of the compact and does not contain the requisite state enabling legislation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. The Seaway Port of Duluth-Superior Compact is ratified, enacted into law and entered into by this state and the state of Minnesota and with all jurisdictions legally joining in the compact in the form substantially as follows:

SEAWAY PORT OF DULUTH-SUPERIOR COMPACT

The party states solemnly agree:
Article I

Purpose and Intent

(1) That the purpose of this compact is, through means of joint or cooperative action, to cooperate in the development and management of the ports of Duluth, Minnesota and Superior, Wisconsin; and

(2) That this purpose is served through the establishment of a seaway port authority which shall promote the general welfare by providing necessary services to harbor users, promoting the economic development of the area by optimizing the flow and handling of cargo through the ports, protecting the environment of the port area, developing a comprehensive plan for the port area and by representing the interests of the ports in state, national and international discussions of water, environmental and transportation policies.

Article II

Port Authority Created

Section 1 (Members): There is hereby created a joint interstate authority to be known as the Seaway Port Authority of Duluth-Superior. Each party state shall appoint 5 commissioners of the authority; the manner of appointments, terms of office, compensation, provisions for removal or suspension, or appointments to fill vacancies shall be determined by each party state, but each commissioner shall be a resident of the state from which he or she is appointed.

Section 2 (Voting): No motion shall be put to a vote unless
at least 3 commissioners from each party state are present. Motions regarding bonding, or other financial matters shall require the affirmative vote of at least 3 members from each party state for passage of the motion. In all other matters, a majority of all votes cast shall be sufficient to pass or defeat a motion.

Section 3 (Officers): The board of commissioners shall annually elect from among its members a chairperson, a vice chairperson who shall not be a resident of the state represented by the chairperson, a secretary and a treasurer.

Section 4 (Bylaws): The board of commissioners may adopt such rules and bylaws as are necessary for their operation, consistent with the laws of the party states.

Section 5 (Meetings): The board of commissioners shall meet at the call of the chairperson or at the call of at least 3 commissioners of a party state, upon 5 days' notice, but at least once in each month. Meetings shall be conducted in accordance with the laws of the state in which they are held.

Section 6 (Advisory Committees): The board of commissioners may establish advisory committees consistent with the laws of the party states.

Article III

Staff

The board of commissioners shall appoint an executive director and such other staff as may be necessary, on a full or part-time basis. Subject to the control of the board, the executive director shall be in complete charge of the administrative functions of the
authority, and shall have additional powers and duties as the board may delegate, except that the chief financial officer shall be appointed by the board and shall report directly to it.

Article IV

Operating Reports

Section 1 (Minutes): The board of commissioners shall compile a written record of its proceedings, and the minutes shall be a public record.

Section 2 (Reports): On or before July 1, of each year, the authority shall make a report to the governor and legislature of each party state. Such reports shall include the activities of the commission during the year just concluded, the activities intended for the year then commenced, and the appropriations, gifts, grants, and expenditures as verified by audits conducted as required under Article VI, Section 3.

Article V

Legal Status

The authority shall be a body politic and corporate in the party states with the right to sue and be sued.

Article VI

Finance

Section 1 (Program Revenue): The authority may collect, subject to the terms of this compact and the laws of the party states, such fees, charges, fines and forfeitures as may accrue to it in the conduct of its lawful duties.

Section 2 (Donations, gifts, grants and appropriations): The
board of commissioners may accept, for any of its lawful purposes and functions, donations, gifts, grants and appropriations of money, property equipment, supplies, materials and services from the federal government of the United States, from any party state or from any department, agency or municipality thereof, or from any institution, person, firm or corporation.

Section 3 (Annual Audit): The authority shall keep accurate accounts of all receipts and disbursements which shall be audited as of March 31 of each year consistent with the laws of the party states.

Section 4 (Expenditures): All expenses incurred by the authority in exercising the powers conferred, or executing the duties imposed upon it by this compact, unless otherwise provided in this compact, shall be from the funds then available to it. The authority shall not go into debt except as provided by the party states. The authority shall not pledge the credit of any state or municipality without the consent of the state or municipality.

Article VII

Entry Into Force and Withdrawal

Section 1 (Enabling Legislation): This compact shall become operative immediately after passage of an act by the party states incorporating the provisions of this compact into the laws of such states, and upon consent to its provisions by the Congress of the United States.

Section 2 (Withdrawal): A state may withdraw from this compact by law, except that no such withdrawal shall take effect
until 12 months after the governor of the withdrawing state has notified the governor of the other party states, in writing, of the intent to withdraw. No withdrawal shall affect any liability already incurred by or chargeable to a party state at the time of the withdrawal. In the event of a withdrawal, property, assets and liabilities shall be divided in accordance with an agreement rati- fied by the states.

Article VIII

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remain- der of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected. If this compact or any part thereof is held contrary to the constitution of a party state, the compact shall remain in full force and effect in the other party state and, as to the state so affected, in full force and effect as to all severable matters.

Article IX

Amendments

Proposed amendments to this compact, having been approved by the party states, shall be submitted to the Congress of the United States for consent.
Article X

Powers and Duties

(1) If a party state does not, by law, specify the powers conferred upon and duties required of the authority, then the authority may exercise the powers and duties in that state which that state affords to any other port authority.

(2) Powers and duties which may be conferred upon or required of the authority may include, but are not limited because of enumeration, the right to acquire and hold property, the right to construct, lease, alter, maintain and operate harbor facilities, the power to engage in industrial and other economic development including the issuance of revenue bonds, and the power to compel the attendance of witnesses and the production of records when necessary for inquiries into port activities.

(End)
A compact for the development and management of the ports of Duluth, Minnesota, and Superior, Wisconsin, is hereby ratified, enacted into law, and entered into with the state of Minnesota, in the form substantially as follows:

(TEXT OF COMPACT IS INSERTED AT THIS POINT)

Section 14.83 of the Wisconsin statutes is hereby created.

(1) AUTHORITY CREATED

(a) There is hereby created a joint interstate authority to be known as the Seaway Port Authority of Duluth-Superior. A five member board of commissioners shall be appointed in the following manner:

(1) One person appointed by the chairman of the county board of Douglas county and confirmed by the board, to a 4 year term, the first full term to commence in 1978.

(2) Two persons appointed by the mayor of the city of Superior and confirmed by the city council, to 4 year terms, the first full terms to commence in 1979 and 1981.

(3) One person appointed by the governor, to a 4 year term, the first full term to commence in 1980.

(4) One person appointed by the legislature, the appointment to be made alternately by the houses, and to be made as are standing committees, to a 2 year term, the first full term to commence in 1978, and the initial appointment to be made by the Assembly.

(b) Initial appointments, as necessary, to partial terms, shall be made within 90 days of the effective date of this act.

(c) No person may be serve as a commissioner for more than a total of 12 years.

(d) In the event that a vacancy occurs, a replacement shall be appointed to complete the unexpired term in the same manner as the original appointment.
(e) No person may be appointed a commissioner unless he or she is a resident of this state. No person may be appointed a commissioner by the mayor of the city of Superior or by the chairman of the county board of Douglas county unless he or she is a resident of the city of Superior.

(f) A commissioner may be removed from office in accordance with (insert citation).

(g) Commissioners shall file statements of economic interests in accordance with (insert citation).

(h) Members shall serve without compensation except that they may, at the discretion of the board, receive per diem within the limits allowed under Internal Revenue Service Regulation (insert citation), or reimbursement for actual and necessary expenses incurred in the performance of his or her duties.

(i) The board of commissioners may establish advisory committees as it deems necessary. Members of advisory committees need not be residents of party states. Levels and manner of compensation, if any, for advisory committee members shall be determined by the board.

(j) Persons employed by the Seaway Port Authority of Duluth-Superior shall be considered to be employees of the state of Minnesota for employment purposes, however, this state shall pay, from the appropriation under (insert citation), half of any contribution to an employment-related program for which the state of Minnesota is liable.

(k) A copy of all minutes and other publications and reports produced by the authority shall be filed with the Interstate Cooperation Commission in accordance with 13.54 (3) and they shall be public records unless otherwise specified by law.

(l) The authority shall annually submit an audit of its financial operations to the Legislative Audit Bureau, the audit to have been conducted by a certified public accountant. Nothing in this section shall be construed to limit the power of the Legislative Audit Bureau to conduct an audit of the authority's records.

(m) The board of commissioners may adopt such rules and by-laws as are necessary for their operation, but all meetings held in this state shall be conducted in accordance with (insert citation).

(2) JURISDICTION The authority shall exercise its powers and duties within the port areas defined in Article XI and in such other places as may be designated by the city of Superior, but such areas shall not include any land or water more than 10 statute miles from (designate point).
APPENDIX - LIST OF MATERIALS AVAILABLE

Minnesota IPAC Law (M.S. Laws 1976, Chapter 270)
Wisconsin IPAC Law (W.S. Laws 1975, Chapter 376)
Minutes of All IPAC Meetings
IPAC Memorandum "Advantages and Issues in Merging Duluth and Superior Ports"
Summaries of Duluth and Superior Port Authority Laws
IPAC Memorandum "Goal or Purpose, Organization and Staffing of Merged Authority"
IPAC Memorandum "Intergovernmental Problems with a Merged Port"
IPAC Memorandum "Powers of a Merged Port"
IPAC Memorandum "Financing for the New Merged Port Authority"
IPAC Memorandum "Tonnage Fees Freeze of the Port Authority Harbor"
New York-New Jersey "Port Compact of 1921"
IPAC Memorandum "Final Recommendations to the Legislature and the Cities: Some Alternatives"
Slide Presentation (Betty Hetzel-Superior) on Duluth-Superior Port
Audit Reports - Duluth Seaway Port Authority
1975 Booz, Allen, & Hamilton Report on Merging the Port of Chicago
The Economic Impact of Minnesota's World Port - SPAD
Various Reports of Professor Harold Mayer from the University of Wisconsin
AN ACT

relating to the authority of certain navigation districts to acquire land, equipment, or improvements and issue bonds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 62, Water Code, is amended by adding Sections 62.1071 and 62.1072 to read as follows:

Sec. 62.1071. ACQUISITION OF LAND, EQUIPMENT, OR IMPROVEMENTS IN CERTAIN COUNTIES. (a) This section applies only to a district that has a county of jurisdiction with a population of more than 2.8 million.

(b) A district may acquire, by any means except by condemnation, and own land, equipment, or improvements located in a county that is adjacent to the district's county of jurisdiction if the commission considers the land, equipment, or improvements:

(1) necessary, required, or convenient for any purpose necessary or incident to the development and operation of navigable water or a port located in the district's county of jurisdiction or a county adjacent to that county; or

(2) may be in aid of, or necessary, required, or convenient for, the development of industries and businesses on the land in the county of jurisdiction or a county adjacent to that county.

(c) Notwithstanding any other law or municipal charter, a district may acquire, and any public or private owner may dispose of, land, equipment, or improvements on any terms to which the
commission and the property owner agree.

(d) If in connection with an acquisition or disposition of land, equipment, or improvements under this section the governing body of a municipality decides to discontinue operations of a port, as a utility of the municipality or otherwise, the acquisition or disposition of the land, equipment, or improvements may not be completed until a majority of the qualified voters of the municipality voting at an election called and held for that purpose approve of the discontinuance of the operations.

(e) The commissioners may change the name of the district in connection with the acquisition of land, equipment, or improvements under this section.

(f) Notwithstanding the source of the revenue, a district that acquires land, equipment, or improvements under this section may use or pledge to the payment of obligations of the district for the development of any district facility, regardless of the location of the facility, any revenue of the district, except as provided by Section 62.209.

(g) Section 41.001(a), Election Code, does not apply to an election held under this section.

(h) Except as provided by this section, an election held under this section must be conducted as provided by the Election Code.

Sec. 62.1072. ADDITIONAL COMMISSIONERS FOR ACQUISITIONS FROM CERTAIN MUNICIPALITIES. (a) A district that acquires land, equipment, or improvements under Section 62.1071 from a municipality with a population of more than 35,000 that operates navigation and port facilities and that is located in a county adjacent to the county of jurisdiction may add positions for
members of the commission, as determined by the commission. Not
more than two positions may be added to the commission under this
section.
(b) The governing body of the municipality in which the
acquired land, equipment, or improvements are located shall appoint
the additional commissioners.
(c) Commissioners serving in the positions added under
Subsection (a) shall serve terms that are consistent with the law
governing the terms of the other commissioners.
SECTION 2. Subchapter F, Chapter 62, Water Code, is amended
by adding Section 62.209 to read as follows:
Sec. 62.209. USE OF BOND PROCEEDS FOR CERTAIN ACQUISITIONS
OF CERTAIN DISTRICTS. A district to which Section 62.1071 applies
may not spend for the acquisition of land, equipment, or
improvements under that section the proceeds of bonds authorized by
the district's voters before the district undertakes the
acquisition.
SECTION 3. The importance of this legislation and the
crowded condition of the calendars in both houses create an
emergency and an imperative public necessity that the
constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended,
and that this Act take effect and be in force from and after its
passage, and it is so enacted.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1665 passed the Senate on
May 7, 1999, by the following vote: Yes 29, Nays 1.
I hereby certify that S.B. No. 1665 passed the House on May 22, 1999, by the following vote: Yeas 144, Nays 0, two present not voting.

Secretary of the Senate

Chief Clerk of the House

Approved:

Date

Governor