

Portsmouth Port and Industrial Commission

- Created: 1954 Acts of Assembly, c. 157 as Portsmouth Port Commission.
- Amended: 1964 Acts of Assembly, c. 29
Amended (§ 1; changed name to Portsmouth Port and Industrial Commission)
- 1966 Acts of Assembly, c. 468
Amended (§§ 3, 6, 9, 10, 11, 12, 21)
- 1968 Acts of Assembly, c. 688
Amended (§§ 1, 2, 5 through 12, 14 through 19)
Added (§§ 22, 23, 24)
- 1970 Acts of Assembly, c. 138
Amended (§ 14)
- 1977 Acts of Assembly, c. 420
Amended (§§ 6, 9)
- 1978 Acts of Assembly, c. 287
Amended (§§ 3, 4)
- 2007 Acts of Assembly, c. 237, 339
Added (§ 25).

§ 1. The creation, pursuant to this act, of the political subdivision of the Commonwealth now known as the Portsmouth Port and Industrial Commission, hereinafter called the Commission, is confirmed, and the Commission shall continue, as provided in § 2 hereof, under that name as such subdivision, with such public and corporate powers as are granted in this act. (1954, c. 157; 1964, c. 29; 1968, c. 688)

§ 2. The existence of the Commission shall continue until all its liabilities have been met and its bonds have been paid in full.

The provisions of this section shall not, however, be construed as requiring the dissolution of the Commission, or as automatically dissolving the Commission, upon the discharge of all such liabilities and the payment of all such bonds. (1954, c. 157; 1968, c. 688)

§ 3. The Commission shall be governed by seven commissioners, appointed by the council of the city of Portsmouth. The Commission may own and operate facilities located within or partly within and partly without the city of Portsmouth. All action and proceedings heretofore taken by the council of said city relating to said Commission are hereby ratified, validated and confirmed and the appointment of the present commissioners is hereby ratified, validated and confirmed and the appointment of the present commissioners is hereby ratified, validated and confirmed, and all actions and proceedings taken by said commission to date are hereby ratified, validated and confirmed. (1954, c. 157; 1966, c. 468; 1978, c. 287)

§ 4. Appointment to the Commission shall be for five year terms and staggered so that no more than two appointments shall expire simultaneously. A vacancy to an unexpired term shall be filled by appointment for such unexpired term. Each

commissioner shall before entering on his duties take and subscribe the oath prescribed by § 49-1 of the Code of Virginia. (1954, c. 157; 1978, c. 287)

§ 5. The commissioners shall elect from their membership a chairman and vice chairman, and from their membership or not, as they desire, a secretary and a treasurer or secretary-treasurer. The Commission may also elect, from their membership or not, as they desire, one or more assistant secretaries, one or more assistant treasurers or one or more assistant secretary-treasurers. The Commission shall meet at least monthly and at such times as may be required. A majority of the whole number of the commissioners, at a meeting duly held at a time fixed by any bylaw adopted by the Commission, or at any duly adjourned meeting of such meeting, or at any meeting duly held upon reasonable notice to all of the commissioners, shall constitute a quorum, and a majority of the whole number of the commissioners may perform and exercise the powers authorized and provided in this act. For the purpose of this section the words "whole number" shall be construed to mean the total number of commissioners which the Commission would have were there no vacancies and were none of the commissioners disqualified from acting. The Commission may delegate to one or more of its commissioners, or its agents, or employees, such powers and duties as it may deem proper. The commissioners shall receive no salary but shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties. The Commission shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of all its financial transactions and shall arrange to have the same audited annually. Copies of each such audit shall be furnished to the council of the city of Portsmouth and shall be open to public inspection. In event of the dissolution of the Commission the council of the city of Portsmouth shall be the trustees thereof, with full power and authority to settle its affairs, collect all outstanding debts, sell and cause to be conveyed its property, real and personal, and to deliver the same to the city of Portsmouth, after paying all its debts. (1954, c. 157; 1968, c. 688)

§ 6. The Commission shall have the following powers:

(a) To contract and be contracted with; to sue and be sued; and to adopt and use a corporate seal, and to alter the same at pleasure;

(b) To acquire (whether by purchase, lease, grant, gift or otherwise), construct, reconstruct, hold, maintain, repair, sell, lease and dispose of, personal property necessary for its purposes;

(c) To acquire (whether by purchase, lease, grant, gift or otherwise) real property or rights, easements or estates therein necessary for its purposes; to hold the same; and to sell, lease and dispose of the same, or any portion thereof or interest therein;

(d) To acquire (whether by purchase, lease, grant, gift, exchange or otherwise), construct, reconstruct, hold, develop, improve, extend, enlarge, furnish, equip, maintain, repair and operate, landings, wharves, docks and piers, and the approaches to and appurtenances thereof, tracks, spurs, crossings, switchings, terminals, warehouses, and terminal facilities of every kind and description necessary or useful in the transportation and storage of goods, wares and merchandise; to perform any and all services at said facilities in connection with the receipt, delivery, shipment and transfer in transit, weighing, marking, tagging, ventilating, fumigating, refrigerating, icing, storing and handling of goods, wares, and merchandise; to prescribe and collect charges from vessels coming into or using any landings, wharves, docks and piers, operated and maintained by

the Commission and from persons using any of its other facilities; and to lease any and all of such facilities or any concessions properly incident thereto for the maintenance and operation of any or all thereof on such terms and conditions as it may deem proper.

(e) To maintain and operate a foreign trade zone under such terms and conditions as may be prescribed by law.

(f) To sell or lease, or to acquire by purchase, lease, grant, gift, construction or otherwise, for sale or lease, on such terms and conditions as it may deem proper, factories, manufacturing facilities of any kind and description, or any of the facilities described in subparagraph (d) of this section, and approaches to and appurtenances thereof, and to reconstruct, hold, improve, extend, enlarge, furnish and equip any of the same owned or leased by the Commission.

(g) To fix, alter, charge and collect tolls, fees, rentals and any other charges for the use of, or for the services rendered by, any of the facilities it is authorized hereunder to maintain and operate.

(h) To employ a director and such other agents and employees as may be necessary, to serve at the pleasure of the Commission, and to fix their compensation and prescribe their duties.

(i) To borrow money and incur debt, and to issue its bonds, notes or other obligations in the manner and subject to the provisions hereinafter set forth in this chapter, for the purpose of carrying out any of its powers and purposes; to provide for the rights of the holders of such bonds, notes or other obligations and the securing of such rights and the payment of such bonds, notes and other obligations as hereinafter provided; and to purchase such bonds, notes or other obligations for investment, resale or cancellation. All bonds, notes or other obligations heretofore issued by the Commission, and all acts and proceedings heretofore taken in connection with the authorization, issuance and sale of bonds, notes or other obligations of the Commission, are hereby ratified, validated and confirmed, and all such bonds, notes and other obligations heretofore issued and now outstanding shall constitute valid and legally binding obligations of the Commission payable in accordance with their terms.

(j) To receive and accept from any public or private source for any one or more of its purposes or in aid in carrying out any one or more of its purposes or in aid in carrying out any one or more of its powers, grants, aid or contributions of money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants or contributions are made, and to expend the same for the purposes for which made.

(k) To make payments to the city of Portsmouth or the State of Virginia or agencies or instrumentalities thereof in reimbursement for grants, contributions or appropriations to the Commission made by such city or by the State or such agencies or instrumentalities or in reimbursement for the payment by the city or the State or such agencies and instrumentalities of the principal and interest of bonds issued by the city, or by the State or such agencies or instrumentalities, to obtain moneys to make such grants or contributions or appropriations to the Commission; and to make payments to the city of Portsmouth from the surplus revenues and income of the Commission not otherwise required by the Commission to carry out its purposes and powers.

(l) To make and enter into all contracts and agreements, execute all instruments, and do all other acts and things, which may be reasonably necessary and convenient to carry out its purposes and powers.

(m) To make bylaws or rules and regulations for the management and regulation of its affairs.

(n) The Commission has the right to acquire (whether by purchase, lease, grant gift, exchange or otherwise), construct, reconstruct, hold, develop, improve, extend, enlarge, equip, maintain, repair and operate on such terms as it may deem proper commercial, manufacturing and governmental facilities and properties of any kind and description, including specifically office buildings and structures necessary or appropriate for industrial ,commercial or governmental uses, and to sell, convey or lease any and all of such properties and facilities properly incident thereto on such terms and conditions as it may deem proper.

(o) The Commission 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 any of its purposes 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 Commission 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 and provided further that the Commission shall have no power to condemn any property lying within the County of Nansemond. 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. (1954, c. 157; 1966, c. 468; 1968, c. 688; 1977, c. 420)

§ 7. The Commission shall foster and stimulate the commerce of the port of Portsmouth and the shipment of freight through such port, and may investigate and handle matters pertaining to all transportation rate structures affecting the commerce of the port. To this end, the Commission may appoint a Port Advisory Committee to advise it, consisting of such number of persons as it may deem advisable; such persons shall not receive any compensation for their services, but may be reimbursed their necessary traveling and other expenses incurred while on business of the Commission. (1954, c. 157; 1968, c. 688)

§ 8. The Commission may foster and stimulate the development of industry in the area within its jurisdiction. To this end, the Commission may appoint an Industrial Advisory Committee to advise it, consisting of such number of persons as it may deem advisable; such persons shall not receive any compensation for their services, but may be reimbursed their necessary traveling and other expenses incurred while on business of the Commission. (1954, c. 157; 1968, c. 688)

§ 9. The Commission may sell any property owned by it which it deems to be no longer useful or necessary in its operations, provided, how ever, that the Commission shall first advertise for bids therefor by publication of the notice of receipt of such bids, once in a newspaper, published in or having a general circulation in the city of Portsmouth at least ten days prior to the receipt of such bids. The Commission shall have the right to reject any and all bids. Notwithstanding, and without being subject to the

foregoing provisions of this section, the Commission may lease, assign, convey or otherwise transfer or dispose of to the Commonwealth of Virginia or any authority, commission or political subdivision thereof any of its property, real or personal, upon such terms as may be agreed upon, and may also lease, assign, convey or otherwise transfer or dispose of to any person, firm or corporation the facilities described in subparagraphs (d), (f) and (n) of § 6 of this act upon such terms as may be agreed upon. (1954, c. 157; 1966, c. 468; 1968, c. 688; 1977, c. 420)

§ 10. The council of the city of Portsmouth is authorized and empowered to transfer to the Commission the operation and maintenance of such suitable facilities as are now or may be hereafter owned by the city, on such terms and conditions which it may prescribe; but this section shall not be construed as authorizing the Commission to maintain and operate such facilities unless and until the operation thereof has been transferred by the council. The council of the city of Portsmouth is also authorized and empowered by ordinance or resolution to lease, assign, convey or otherwise transfer or dispose of to the Commission any property, real or personal, or rights or estates therein, now or hereafter owned by the city, on such terms and conditions which the council may prescribe and no provision of the charter of the city, or any other law to the contrary, shall be applicable to such lease, assignment, conveyance or disposition. Any and all leases, assignments, conveyances, transfers or other dispositions of personal or real property heretofore made by the city of Portsmouth to the Commission, and the making thereof, are hereby validated, ratified and confirmed. (1954, c. 157; 1966, c. 468; 1968, c. 688)

§ 11. The city of Portsmouth is authorized and empowered to make appropriations and to provide funds for the carrying out by the Commission of any of its powers and purposes, and any such appropriations heretofore made by the city of Portsmouth to the Commission are hereby validated, ratified and confirmed. The Commission shall pay to the city of Portsmouth in lieu of taxes a sum equal to five per cent per annum of the net annual income received by the Commission exclusive of the proceeds of bonds, notes, or other obligations of the Commission and any grants or contributions received from the federal government, the Commonwealth of Virginia, or any political subdivision thereof or from any other source, public or private; provided, however, that the council of the city of Portsmouth may, from time to time, by resolution, waive the payment by the Commission of all or any part of such payment in lieu of taxes on all or any part of the income of the Commission for such period of time as may be prescribed therein. For the purposes of this paragraph "net annual income" shall mean the income received by the Commission in any year remaining after there shall have been deducted from the gross income of the Commission for such year the costs to the Commission of operation, repair and maintenance of its facilities and properties, including the administrative costs of the Commission; payment of, or accruals for the payment of, principal of and interest on its bonds, notes or other obligations of indebtedness; amounts required by its resolution or resolutions or trust agreements or indentures authorizing or securing its bonds, notes or other obligations, to establish, maintain or replenish the reserves required by such resolutions, trust agreements or indentures; payments to the State or any agency or instrumentality thereof or to the city of Portsmouth in reimbursement for grants, contributions or appropriations made to the Commission by the State or such agency or instrumentality or by said city, including therein any reimbursement by the Commission

to the State or its agencies or instrumentalities or to said city, for the payment by the State or its agencies or instrumentalities or by the city, for the principal and interest of any bonds issued by the State or its agencies or instrumentalities or by said city, to derive the funds or moneys so granted, contributed or appropriated to the Commission. (1954, c. 157; 1966, c. 468; 1968, c. 688)

§ 12. The Commission shall have the power to issue bonds from time to time in its discretion for any of its purposes or to carry out any of its powers, including, without limiting the generality of the foregoing, the payment or retirement of notes or obligations issued by it in anticipation of the issuance of its bonds. The Commission may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds payable, both as to principal and interest, from any one or more of the following or any combination thereof: (a) from its income and revenues generally; (b) exclusively from the income and revenues of a "particular facility", which term shall mean a particular building or structure or particular buildings or structures, including all equipment, appurtenance and accessories necessary or appropriate for the operation of such facility; or (c) exclusively from the income and revenues of certain designated facilities. The bonds may be payable from any one or more, or combination, of the foregoing, income and revenues whether or not the facility or facilities from which is derived such revenue and income have been, or are, financed in whole or in part from the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any grant or contribution from the federal government, Commonwealth of Virginia, or any authority, commission or political subdivision thereof, or a pledge of any income or revenues of the Commission, or a mortgage of any particular facility or facilities or other property of the Commission.

Without limiting in any way the provisions of this section as to the purposes for which the Commission may issue bonds, notes or other obligations, the proceeds of the sale of bonds, notes or other obligations of the Commission may be applied to the creation, maintenance or augmenting of such reserves as may be required to be created, maintained or increased by the resolution authorizing such bonds, notes or obligations or the trust agreement or indenture securing the same, which reserves may include (but shall not be limited to) reserves for costs of operation and maintenance, reserves for the payment of the principal of and interest on the bonds and reserves for extraordinary repairs and expenses. Such proceeds may also be applied to the payment of the cost of any facility or facilities of the Commission, and the word "cost" as used in this sentence and as applied to any facility or extension or addition thereto may include the purchase price of any facility or property acquired by the Commission or the cost of acquiring all the capital stock of any corporation, owning such facility or property so acquired and the amount to be paid to discharge all of its obligations in order to vest title to such facility or property or any part thereof in the Commission (which corporation shall be dissolved as soon as practicable after the acquisition by the Commission of such capital stock); the cost of construction or reconstruction; the cost of all labor, materials, machinery, furnishing and equipment, the cost of all lands, property, rights, easements, estates and franchises acquired; financing charges; interest prior to, during and after construction for such period as the Commission may determine; costs of plans, and specifications, surveys and estimates of costs and of revenues; cost of engineering services; cost of legal services; cost of all other expenses necessary or incident to determine the feasibility or

practicality of such acquisition, construction, reconstruction; administrative expense; and such other expenses as may be necessary or incident to the financing of any facility. Any obligation or expense incurred by or for or &n behalf of the Commission in connection with any of the foregoing items of cost may be regarded as a part of such cost and be reimbursed out of the proceeds of the bonds.

The Commission may borrow money for temporary use for any purpose for which it is authorized above to issue bonds, and in evidence of such borrowing may issue from time to time notes or other obligations. Any such temporary borrowing may be made in anticipation of the issuance and sale of bonds, and in such event the principal proceeds from the sale of such bonds shall, to the extent necessary, be used for the payment of the principal of and interest on the notes or other obligations issued in anticipation of the issuance and sale of such bonds. Such notes or other obligations may be renewed from time to time, either by the issuance of renewal notes or other obligations in exchange for the outstanding notes or obligations or by the issuance and sale of the renewal notes or obligations and the application of the proceeds of such sale in payment of the outstanding notes or obligations. The Commission, in its discretion, may also retire any notes or obligations by means of the application thereto of any moneys available for such purpose. All notes and obligations issued pursuant to this paragraph and the issuance and details thereof shall be governed by the provisions of this chapter with respect to bonds insofar as the same may be applicable; and, without limiting the generality of the provisions of this sentence, the provisions of sections 13, 14, 15, 16,17,18,22 and 23 of this chapter shall be equally applicable to such notes or other obligations.

For the purpose of paying and retiring any of its bonds heretofore or hereafter issued, the Commission may from time to time issue its refunding bonds with which to pay, call and redeem all or any part of its outstanding bonds, and may include various series and issues of such outstanding bonds in a single issue of refunding bonds and may include refunding bonds and bonds otherwise to be issued by the Commission under this chapter in a single issue of bonds. Refunding bonds may be issued to pay principal, any redemption premium and interest to accrue and become payable on the outstanding bonds being refunded. The interest rate or rates of the refunding bonds shall not be limited by the interest rate or rates borne by any of the bonds to be refunded thereby. The refunding bonds may be issued and delivered at or at any time before the maturity or redemption date of the bonds to be refunded that the Commission determines to be in its best interest. The refunding bonds shall be issued in accordance with the provisions of this chapter applicable to the issuance of bonds, and all of the provisions of sections 12, 13, 14, 15, 16, 17, 18, 22 and 23 of this chapter shall be equally applicable to such refunding bonds; provided that, notwithstanding the provisions of Section 14 as to the sale of bonds issued under this chapter, in the discretion of the Commission refunding bonds may be exchanged at not less than the par value of such refunding bonds for an equal amount of the bonds to be refunded under the provisions of this chapter at not more than the par value of the bonds to be refunded. In the event of the sale of refunding bonds, the proceeds therefor shall be applied solely to the payment of the bonds to be refunded under the provisions of this Chapter, but nothing in this sentence shall prohibit the issuance and sale of a single issue of bonds, both for refunding purposes and for other purposes of the Commission. All bonds so refunded and redeemed by the issue and sale

or issue and exchange of refunding bonds shall be cancelled. (1954, c. 157; 1966, c. 468; 1968, c. 688)

§ 13. Neither the commissioners of the Commission nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the Commission (and such bonds and obligations shall so state on their face) shall not be a debt of the Commonwealth or any political subdivision thereof other than the Commission and neither the Commonwealth nor any political subdivision thereof other than the Commission shall be liable thereon, nor, shall such bonds or obligations be payable out of any funds or properties other than those of the Commission. The bonds shall not constitute an indebtedness within the meaning of any debt limitation or restriction. Bonds of the Commission are declared to be issued for an essential public and governmental purpose. (1954, c. 157)

§ 14. Bonds of the Commission shall be authorized by resolution adopted by the Commission and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be of such tenor, be in such denomination or denominations be in such form, either bearer, coupon or registered, carry such conversion or registration privileges, have such rank or priority, be payable in such medium, of payment at such place or places within or without the Commonwealth, and be subject to such terms of redemption (with or without premium) as such resolution or the trust agreement or indenture or mortgage securing such bonds may provide. To secure the payment of the principal of and interest on the bonds the Commission shall have power to execute and deliver a trust agreement or indenture by and between it and any trust company, or any bank having the powers of a trust company, within or without the Commonwealth. Any such resolution, trust agreement or indenture and the provisions thereof shall be a part of the contract with the holders of the bonds. The bonds may be sold in such manner, either at public or private sale, and for such price, as the Commission may determine to be for its best interests. (1954, c. 157; 1968, c. 688; 1970, c. 138)

§ 15. The bonds and coupons and any certification or endorsement thereon may be executed with an engraved, imprinted, stamped or otherwise reproduced facsimile of any signature, seal or other means of authentication, certification or endorsement thereon, if so authorized by the Commission, so long as at least one signature thereon shall be manually subscribed, which manual signature may be that of any authenticating or certifying person, agent or trustee. In case any of the commissioners or officers of the Commission whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall nevertheless, be valid and sufficient for all purposes, the same as if such commissioners or officers had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this act shall be fully negotiable within the meaning and for all the purposes of Chapter 10 of Title 6 of the Code of Virginia. (1954, c. 157; 1968, c. 688)

§ 16. In order to secure the payment of such bonds the Commission shall have power by provision or provisions included in any resolution authorizing such bonds or in any trust agreement or indenture made to secure their payment:

(a) To pledge all or any part of its gross or net rents, fees, revenues, and other income to which its right then exists or may thereafter come into existence, and whether

or not the facility or facilities from which such rents, fees, revenues and income are, or shall be, derived have been, or are, financed from the proceeds of such bonds.

(b) To mortgage all or any part of its real or personal property, then owned or thereafter acquired.

(c) To covenant against pledging all or any part of its rents, fees, revenues or other income, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any facility or any part thereof; and to covenant as to what other, or additional debts or obligations may be incurred by it, and as to the limitations on the issuance of additional bonds by it.

(d) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use, investment and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(e) To covenant as to the rents and fees to be charged in the operation of a facility or facilities, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use, investment and disposition to be made thereof; to create or to authorize the creation and maintenance of special funds for moneys held for construction or operating costs, debt services, sinking funds, reserves, or other purposes, and to covenant as to the use, investment and disposition of the money held in such funds and reserves.

(f) To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

(g) To covenant as to the use of any or all of its real or personal property; and to covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(h) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(i) To vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenant securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by the Commission, to take possession and use, operate and manage any facility or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the Commission with said trustee; to provide for the powers and duties of a trustee or trustees or the holders of bonds or any proportion of them who may enforce any covenant or rights securing or relating to the bonds and the restrictions, if any, upon the individual right of action by the holders of the bonds; and otherwise to provide for the rights and remedies of the holders of the bonds and any trustee or trustees therefor.

(j) To exercise all or any part or combination of the powers herein granted; to include in such resolution, trust agreement or indenture such covenants and provisions other than and in addition to the covenants and provisions herein expressly authorized, of like or different character as the Commission may deem reasonable and proper for the security of the holders of the bonds; to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of said Commission, as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein. (1954, c. 157; 1968, c. 688)

§ 17. An obligee of the Commission shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(a) By mandamus, suit, action or proceeding at law or in equity to compel the Commission and the commissioners, officers, agents or employees thereof to perform each and every term, provision, covenant and agreement contained in any contract, bond resolution, trust agreement or indenture of the Commission with or for the benefit of such obligee, and to require the carrying out of any or all such terms, provisions, covenants and agreements of the Commission and the fulfillment of all duties imposed upon the Commission by this chapter.

(b) By suit, action or proceeding in equity, to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of the Commission. (1954, c. 157; 1968, c. 688)

§ 18. The Commission shall fix and revise from time to time the rents, fees and other charges to be paid by persons for the use of the various facilities of the Commission and from any other service furnished or provided by the Commission. Such rents, fees and charges shall be fixed so as to provide at least sufficient funds: to pay the cost of maintaining, repairing and operating such facilities and principal and interest of any bonds issued by the Commission or other debts contracted as the same shall become due and payable; to establish, maintain and increase any reserves required by the resolution authorizing such bonds, or the trust agreement or indenture securing the same, to be established, maintained or increased; and to carry out all other terms, provisions, covenants and agreements of such resolution, trust agreement or indenture. A reserve or reserves may be accumulated and maintained out of the proceeds of the sale of bonds or the revenues of such Commission, or both, for operation and maintenance costs, the payment of the principal of and interest on the bonds, for extraordinary repairs and expenses and for such other purposes as may be provided in any resolution authorizing a bond issue or in any trust agreement or indenture securing such bonds. Subject to such provisions and restrictions as may be set forth in the resolution or in the trust agreement or indenture authorizing or securing any of the bonds or other obligations issued hereunder, the Commission shall have exclusive control of the revenues derived from any facility or facilities operated and controlled by it and the right to use such revenues in the exercise of its powers and duties set forth in this section. Unless otherwise provided in the resolution or trust agreement or indenture authorizing or securing its bonds, all deposits of moneys or funds of the Commission shall be secured in the manner provided by law for securing deposits of the City of Portsmouth, and all banks and trust companies are hereby authorized to give such security for such deposits. No part of the net earnings

of the Commission remaining after the payment of its expenses and debts shall enure to the benefit of any individual, firm or corporation except the Commonwealth of Virginia and the agencies, instrumentalities and political subdivisions thereof, and no individual firm, association or corporation other than the Commonwealth of Virginia and the agencies, instrumentalities and political subdivisions thereof shall receive any profit or dividend from the revenues, earnings or other funds or assets of the Commission other than for the payment of bonds, for debts contracted, for services rendered, for materials and supplies furnished and for other value actually received by the Commission. (1954, c. 157; 1968, c. 688)

§ 19. In addition to the other powers conferred by this act, the Commission shall have the power to borrow money and to accept contributions, grants and other financial assistance from the federal government and agencies or instrumentalities thereof, or the Commonwealth of Virginia or agencies or instrumentalities thereof, for or in aid of the construction and equipment of its facilities or the retirement or refunding of its bonds. To these ends the Commission shall have the power to comply with such conditions and to execute such mortgages, trust indentures and agreements as may be necessary, convenient or desirable. (1954, c. 157; 1968, c. 688)

§ 20. Nothing contained in this act shall be deemed to authorize the Commission to occupy or use any land, streets, buildings, structures or other property of any kind, owned or used by any political subdivision within its jurisdiction, or any public improvement or facility maintained by such political subdivision for the use of its inhabitants, without first obtaining the consent of the governing body thereof. (1954, c. 157)

§ 21. The powers granted and the duties imposed in this act shall be construed to be independent and severable. If any one or more sections, subsections, sentences, or parts of any of this act shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions so held unconstitutional or invalid. (1954, c. 157; 1966, c. 468)

§ 22. The creation of the Commission and the carrying out of its corporate purposes shall be in all respects a public purpose and the Commission will be performing an essential governmental function in the exercise of the powers conferred upon it by this act. The Commission shall not be required to pay any taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession, operation or supervision or upon the income and revenues therefrom, except as provided in Section 11 of this act, and the bonds issued hereunder, their transfer and the interest and income therefrom, including my profit made on the sale thereof, shall at all times be free and exempt from taxation within the Commonwealth of Virginia. (1968, c. 688)

§ 23. Bonds issued by the Commission under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth of Virginia and its political subdivisions, all insurance companies, trust companies, banking institutions, investment companies, executors, administrators, trustees and other fiduciaries, savings banks and savings institutions, including savings and loan associations, in the Commonwealth, may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any Commonwealth

or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations is now or may hereafter be authorized by law. (1968, c. 688)

§ 24. Without in any manner limiting the general powers granted by this act, the Commission shall have power:

(a) To adopt and enforce reasonable rules and regulations which after publication one time in full in a newspaper of general circulation published in or having general circulation in the city of Portsmouth and when posted where the using public may conveniently see the same, shall have the force and effect of law as to (1) maximum and minimum speed limits applicable to motor vehicles using such project and other property under control of the Commission, (2) the types, kinds and sizes of the vehicles which may use such project, (3) the nature, size, type or kind of materials or substances which shall not be transported through or over such project, and (4) such other rules and regulations as may be necessary or expedient in the interest of public safety with respect to the use of such project.

(b) The violation of any such rules and regulations shall be punishable as follows:

(1) If such a violation would have been a violation of law or ordinance if committed on any public road, street, highway or turnpike in the county or municipality in which such violation occurred, it shall be tried and punished in the same manner as if it had been committed on such public road, street, highway or turnpike.

(2) All other violations shall be punishable as a misdemeanor.

(c) To appoint and employ policemen to enforce within the area under the control of the Commission the rules and regulations adopted by the Commission and the laws of this Commonwealth. Such police shall have the powers vested in police officers under § 15.1-138 and § 52-8 of the Code of Virginia which sections shall apply, mutatis mutandis, to police appointed under this act.

Such policemen appointed by the Commission may issue summons to appear, or arrest on view or on information without warrant as permitted by law, within the jurisdiction of this State, and conduct before the Municipal Court of the City of Portsmouth any person violating, within or upon the project or other property under the control of the Commission, any rule or regulation of the Commission or any law of this Commonwealth pertaining to the regulation and control of highway traffic in any pier or project owned or operated by the Commission.

(d) For the purpose of enforcing such laws, rules and regulations, the court or courts having jurisdiction for the trial of criminal offenses of the city of Portsmouth shall have jurisdiction to try any person charged with the violating of any such laws, rules and regulations. Fines and costs assessed and collected for violation of any regulation, statute or ordinance not being a law adopted by the General Assembly or promulgated by a State agency under authority thereof shall be paid to the court trying such case for the benefit of the city of Portsmouth; provided that fines and costs assessed for violation of any criminal law of the State, Title 46.1 of the Code, or any other State law, or regulation promulgated by a State agency shall be paid into the literary fund. (1968, c. 688)

§ 25. Without in any manner limiting the general powers granted by this Act, the Commission shall have the power:

(a) To provide financing by leasing, selling, which shall include selling by pocket deeds, or making loans for facilities for a § 501(c)(3) organization, including all items of

cost for such facilities and for working capital for use by such § 501(c)(3) organization, and to adopt such resolutions and to enter into indentures, contracts, instruments and agreements as may be expedient to issue qualified § 501(c)(3) bonds and to provide for such loans and any security therefor. Such loans shall be made only from revenues of the Commission that have not been pledged or assigned for the payment of any of the Commission's other bonds or notes. All bonds or notes issued by the Commission for the benefit of a § 501(c)(3) organization shall be payable solely from the revenues and receipts derived from the leasing or sale by the Commission of such facilities or from payments received by the Commission in connection with loans financing such facilities. Facilities may be located within or without the City of Portsmouth. The Commission shall not have the power to operate any facilities for a § 501(c)(3) organization other than as a lessor.

(b) To charge to conduit borrowers an administrative fee upon the issuance of its bonds and notes, whether issued to finance facilities for a § 501(c)(3) organization or to finance projects authorized elsewhere in Chapter 157, as amended, which administrative fee shall comply with the limitations imposed by § 148 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated in connection therewith, and to enter into agreements with other bond-issuing authorities or localities to share or allocate administrative fee payments on such terms as may be agreed upon, either in a standing agreement or in separate agreements for each financing.

For purposes of this section:

"Cost," "facilities," and "loans" shall have the respective meanings ascribed thereto in § 15.2-4902 of the Code of Virginia, as amended;

"Qualified § 501(c)(3) bond" shall have the meaning ascribed thereto in § 145 of the Internal Revenue Code of 1986, as amended;

"§ 501(c)(3) organization" means an organization, other than an organization organized and operated exclusively for religious purposes, which is described in § 501(c)(3) of the Internal Revenue Code of 1986, as amended, and which is exempt from federal income taxation pursuant to § 501(a) of such Internal Revenue Code. (2007, c. 237, 339)