

Article 23C.

North Carolina Marine Industrial Park Authority.

**§ 113-315.25. Creation of Authority; membership; appointment; terms and vacancies; officers; meetings and quorum; compensation.**

(a) There is hereby created the North Carolina Marine Industrial Park Authority. It shall be governed by a board composed of 11 members to be appointed as follows. The Board is hereby designated as the Authority.

(b) Nine members shall be appointed by the Governor.

The initial appointments by the Governor shall be made on or after the date of ratification, four terms to expire July 1, 1981; four terms to expire July 1, 1983; and one term to expire July 1, 1985. Thereafter, at the expiration of each stipulated term of office all appointments shall be for a term of four years. The members of the Authority shall be selected as follows: one member be appointed to the Authority for a term to expire July 1, 1983, who is a resident of a village or town where a Marine Industrial Park is located; one member be appointed to the Authority for a term to expire July 1, 1983, who is a resident of a county where a Marine Industrial Park is located; two members be appointed to the Authority for terms which expire July 1, 1981, from the area of the State where a Marine Industrial Park is located; five members (two terms expire July 1, 1981; two terms expire July 1, 1983; and one term expires July 1, 1985) be appointed to the Authority who are residents of the State at large and insofar as practicable shall represent all the other sections of the State. At the expiration of the terms for the representatives as stated above the Governor shall use his discretion on reappointments. However, there shall be no less than five members of the Authority from coastal counties and there should be at least one member on the Authority from each village or town in which the Marine Parks are located. Any vacancy occurring in the membership of the Authority shall be filled by the appointing authority for the unexpired term. The Governor shall have the authority to remove any member appointed by the Governor.

(c) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1191, s. 36.

(d) The General Assembly shall appoint two persons, one upon the recommendation of the Speaker of the House of Representatives, and one upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. The terms of the initial appointees by the General Assembly shall expire on June 30, 1983. The terms of subsequent appointees by the General Assembly shall be two years.

(e) The Governor shall annually appoint from the members of the Authority the chairman and vice-chairman of the Authority. The Secretary of Commerce or his designee shall serve as secretary of the Authority.

(f) No person shall serve on the Authority for more than two complete consecutive terms.

(g) The Authority shall meet once in each 90 days at such regular meeting time as the Authority by rule may provide and at any place within the State as the Authority may provide, and shall also meet upon the call of its chairman or a majority of its members. A majority of its members shall constitute a quorum for the transaction of business. The members of the Authority shall not be entitled to compensation for their services, but shall receive per diem and necessary travel and subsistence expense in accordance with G.S. 138-5 and 138-6. (1979, c. 459, s. 1; 1981 (Reg. Sess., 1982), c. 1191, ss. 36, 37; 1989, c. 751, s. 8(12); 1991 Session Laws (1992 Regular Session), c. 959, s. 85(b); 1995, c. 490, s. 47; 2013-211, s. 1.)

**§ 113-315.26. Personnel.**

The Secretary of Commerce shall appoint any personnel as deemed necessary who shall serve at the pleasure of the Secretary of Commerce. The Secretary of Commerce shall have the power to appoint, employ and dismiss any employees deemed necessary to accomplish the purposes of this Article subject to the availability of funds. It is recommended that, to the fullest extent possible, the Secretary of Commerce consult with the Authority on matters of personnel. (1979, c. 459, s. 2; 1983, c. 717, s. 24; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1989, c. 751, s. 8(13); c. 752, s. 39(d); 1991 (Reg. Sess., 1992), c. 959, s. 24; 2013-211, s. 1.)

**§ 113-315.27. Executive committee.**

There shall be an executive committee consisting of the chairman of the Authority and two other members elected annually by the Authority. The executive committee shall be vested with authority to do all acts which are specifically authorized by the bylaws of the Authority. Members of the executive committee shall serve until their successors are elected. (1979, c. 459, s. 3.)

**§ 113-315.28. Purposes of Authority.**

Through the Authority created by this Article, the State of North Carolina may engage in promoting, developing, constructing, equipping, maintaining and operating one or more marine industrial parks within the State, or within the jurisdiction of the State, and works of internal improvements related to the purposes set forth in this section, including the acquisition or construction, maintenance and operation of watercraft and facilities located at the parks or essential for the proper operation of the parks. The Authority is created as an instrumentality of the State of North Carolina for the accomplishment of the following general purposes:

- (1) To develop and improve the Wanchese Marine Industrial Park, and such other marine industrial parks, including inland ports and facilities, as may be deemed feasible for a more expeditious and efficient handling of marine commerce from and to any place or places in the State of North Carolina and other states and foreign countries;
- (2) To acquire, construct, equip, maintain, develop and improve the port facilities at the parks and to maintain, develop, and improve the navigability of waterways in or adjacent to the parks and those waterways connecting the parks with the channels of commerce of the Atlantic Ocean;
- (3) To foster and stimulate the growth of marine-related industries in the State of North Carolina;
- (4) Repealed by Session Laws 2013-211, s. 1, effective June 26, 2013.
- (5) To accept funds from any counties or cities containing a marine industrial park and to use the same in such manner, within the purposes of said Authority, as shall be stipulated by the funding county or city, and to act as agent or instrumentality of any funding counties or cities in any matter coming within the general purposes of said Authority;
- (5a) To encourage and develop the general maritime and marine-related industries and activities at or in the vicinity of the marine industrial parks;
- (6) And in general to do and perform any act or function which may tend to be useful toward the development and improvement of marine industrial parks in the State of North Carolina, and to increase the movement of waterborne marine

commerce, foreign and domestic, to, through, and from the marine industrial parks.

The enumeration of the above purposes shall not limit or circumscribe the broad objective of developing to the utmost the marine industry possibilities of the State of North Carolina. (1979, c. 459, s. 4; 1993, c. 278, s. 1; 1998-212, s. 15.5(a); 2013-211, s. 1.)

**§ 113-315.29. Powers of Authority.**

In order to enable it to carry out the purposes of this Article, the Authority shall:

- (1) Have the powers of a body corporate, including the power to sue and be sued, to make contracts, and to adopt and use a common seal and to alter the same as may be deemed expedient;
- (2) Have the authority to make all necessary contracts and arrangements with other marine industrial park or port authorities of this and other states for the interchange of business, and for such other purposes as will facilitate and increase the marine industries;
- (3) Be authorized and empowered to rent, lease, buy, own, acquire, mortgage, otherwise encumber, and dispose of such property, real or personal, as said Authority may deem proper to carry out the purposes and provisions of this Article, all or any of them;
- (4) Be authorized and empowered to acquire, construct, maintain, equip and operate any wharves, docks, piers, quays, elevators, compresses, refrigeration storage plants, warehouses and other structures, and any and all facilities needful for the convenient use of the same in the aid of commerce, including the dredging of approaches to port facilities at the parks and improving the navigability of those waterways connecting the parks with the channels of commerce of the Atlantic Ocean;
- (5) Be authorized and empowered to pay all necessary costs and expenses involved and incident to the formation and organization of the Authority, and incident to its administration and operation, and to pay all other costs and expenses reasonably necessary or expedient in carrying out and accomplishing the purposes of this Article;
- (6) Be authorized and empowered to apply for and accept loans and grants of money from any federal agency or the State of North Carolina and its political subdivisions or from any public or private sources available for any and all of the purposes authorized in this Article, and to expend these funds in accordance with the directions and requirements of the granting or loaning authority, or imposed on the loans and grants by any federal agency, the State of North Carolina and its political subdivisions, or any public or private lender or donor, and to give such evidences of indebtedness as shall be required, provided, however, that no indebtedness of any kind incurred or created by the Authority shall constitute an indebtedness of the State of North Carolina, or any of its political subdivisions, and no such indebtedness shall involve or be secured by the faith, credit or taxing power of the State of North Carolina, or any of its political subdivisions;

- (7) Be authorized and empowered to act as agent for the United States of America, or any of its agencies, departments, corporations, or instrumentalities in any matter coming within the purposes or powers of the Authority;
- (8) Have power to adopt, alter or repeal bylaws and rules governing the manner in which its business may be transacted and in which the power granted to it may be enjoyed, and may provide for the appointment of any committees as the Authority may deem necessary or expedient in facilitating its business;
- (8a) Have the authority to assess and collect fees for its services or for the use of its facilities;
- (9) Be authorized and empowered to do any and all other acts and things in this Article authorized or required to be done, whether or not included in the general powers in this section mentioned; and
- (10) Be authorized and empowered to do any and all things necessary to accomplish the purposes of this Article. (1979, c. 459, s. 5; 1987, c. 827, s. 108; 1993, c. 323, s. 1; 2013-211, s. 1.)

**§ 113-315.30. Approval of acquisition and disposition of real property.**

Any transactions relating to the acquisition or disposition of real property or any estate or interest in real property, by the North Carolina State Marine Industrial Park Authority, shall be subject to prior review by the Governor and Council of State, and shall become effective only after the same has been approved by the Governor and Council of State. Upon the acquisition of real property or other estate or interest in real property, by the Authority, the fee title or other estate shall vest in and the instrument of conveyance shall name the "North Carolina Marine Industrial Park Authority" as grantee, lessee, or transferee. Upon the disposition of real property or any interest or estate therein, the instrument of conveyance or transfer shall be executed by the North Carolina Marine Industrial Park Authority. The approval of any transaction by the Governor and Council of State may be evidenced by a duly certified copy of excerpt of minutes of the meeting of the Governor and Council of State, attested by the private secretary to the Governor or the Governor, reciting such approval, affixed to the instrument of acquisition or transfer, and the certificate may be recorded as a part of the instrument of acquisition or transfer, and shall be conclusive evidence of review and approval of the subject transaction by the Governor and Council of State. The Governor, acting with the approval of the Council of State, may delegate the review and approval of such classes of lease, rental, easement, or right-of-way transactions as the Governor deems advisable, and the Governor may likewise delegate the review and approval of the severance of buildings and timber from the land. (1979, c. 459, s. 6; 2013-211, s. 1.)

**§ 113-315.31. Issuance of bonds.**

(a) As a means of raising the funds needed from time to time in the acquisition, construction, equipment, maintenance and operation of any facility, building, structure, or any other matter or thing which the Authority is authorized to acquire, construct, equip, maintain, or operate by this Article, all or any of them, the Authority is hereby authorized at one time or from time to time to issue with the approval of the Governor negotiable revenue bonds of the Authority. The principal and interest of revenue bonds shall be payable solely from the revenue to be derived from the operation of all or any part of its properties and facilities.

(b) A pledge of the net revenues derived from the operation of the properties and facilities, all or any of them, shall be made to secure the payment of the bonds issued to finance them as and when they mature.

(c) Revenue bonds issued under the provisions of this Article shall not be deemed to constitute a debt of the State of North Carolina or a pledge of the faith and credit of the State. The issuance of such revenue bonds shall not directly or indirectly or contingently obligate the State to levy or to pledge any form of taxation whatever or to make any appropriation for their payment.

(d) Such bonds and the income derived from them shall be exempt from all taxation within the State.

(e) Notwithstanding any other provisions of this Article, the State Treasurer shall have the exclusive power to issue bonds and notes authorized under the act upon request of the Authority and with the approval of the Governor after receiving the advice of the Local Government Commission. The State Treasurer in his sole discretion shall determine the interest rates, maturities, and other terms and conditions of the bonds and notes authorized by this Article. The North Carolina Marine Industrial Park Authority shall determine when a bond issue is indicated. The Authority shall cooperate with the State Treasurer in structuring any bond issue in general, and also in soliciting proposals from financial consultants, underwriters, and bond attorneys. (1979, c. 459, s. 7; 1983, c. 577, s. 2; 1985 (Reg. Sess., 1986), c. 955, ss. 13, 14; 2006-203, s. 28; 2013-211, s. 1.)

#### **§ 113-315.32. Power of eminent domain.**

For the acquiring of rights-of-way and property necessary for the construction of wharves, piers, ships, docks, quays, elevators, compresses, refrigerator storage plants, warehouses and other riparian and littoral terminals and structures and approaches thereto, including the navigation stabilization structures and transportation facilities needful for the convenient use of same, the Authority shall have the right and power to acquire the same by purchase, by negotiation, or by condemnation, and should it elect to exercise the right of eminent domain, condemnation proceedings shall be maintained by and in the name of the Authority, and it may proceed in the manner provided for the Board of Transportation by Article 9 of Chapter 136 of the General Statutes. The power of eminent domain shall not apply to property of persons, State agency or corporations already devoted to public use, other than lands subject to the power of eminent domain by the State of North Carolina in the reservation clauses of a deed recorded in the Dare County Registry at Book 79 Page 548. (1979, c. 459, s. 8; 1998-212, s. 15.5(b); 2013-211, s. 1.)

#### **§ 113-315.33. Exchange of property; removal of buildings, etc.**

The Authority may exchange any property or properties acquired under the authority of this Chapter for other property, or properties usable in carrying out the powers conferred by this Article, and also may remove from lands needed for its purposes and reconstruct on other locations, buildings, terminals, or other structures, upon the payment of just compensation, if in its judgment, it is necessary or expedient so to do in order to carry out any of its plans for marine industrial park development, under the authorization of this Article. (1979, c. 459, s. 9; 2013-211, s. 1.)

#### **§ 113-315.34. Jurisdiction of the Authority; application of Chapter 20; appointment and authority of special police.**

(a) The jurisdiction of the Authority in any of the parks shall extend to all properties owned by or under control of the Authority and shall also extend over the waters and shores within the parks and over that part of all tributary streams flowing into the parks in which the tide ebbs and flows, and shall extend to the outer edge of the outer bar situated at the approach to the port of any park.

(b) All the provisions of Chapter 20 of the General Statutes relating to the use of the highways of the State and the operation of motor vehicles thereon are hereby made applicable to the streets, alleys and driveways on the properties owned by or under the control of the North Carolina Marine Industrial Park Authority. Any person violating any of the provisions of said Chapter in or on such streets, alleys or driveways shall, upon conviction thereof, be punished as therein prescribed. Nothing herein contained shall be construed as in any way interfering with the ownership and control of such streets, alleys and driveways on the properties of said Authority as is now vested by law in the said Authority.

(c) The Authority shall post copies of rules concerning traffic and parking at appropriate places on property of the Authority. Violation of a rule concerning traffic or parking on property of the Authority is a Class 3 misdemeanor.

(d) The Secretary of Commerce is authorized to appoint such number of employees of the Authority as he may think proper as special policemen, who, when so appointed, shall have within the jurisdiction of the Authority all the powers of policemen of incorporated towns. Special policemen may arrest persons who violate State law or a rule adopted by the Authority. Employees appointed as such special policemen shall take the general oath of office prescribed by G.S. 11-11. (1979, c. 459, s. 10; 1987, c. 827, s. 109; 1989, c. 751, s. 8(14); 1991 (Reg. Sess., 1992), c. 959, s. 25; 1993, c. 539, s. 869; 1994, Ex. Sess., c. 24, s. 14(c); 2013-211, s. 1.)

#### **§ 113-315.35. Audit.**

The operations of the North Carolina Marine Industrial Park Authority shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. (1979, c. 459, s. 11; 1983, c. 913, s. 14; 2013-211, s. 1.)

#### **§ 113-315.36. Building contracts.**

(a) The following general laws, to the extent provided below, do not apply to the North Carolina Marine Industrial Park Authority:

- (1) Repealed by Session Laws 1999-368, s. 1.
- (2) Except for G.S. 143-128.2, Article 8 of Chapter 143 of the General Statutes does not apply to public building contracts of the Authority that require the estimated expenditure of public money in an amount less than two hundred fifty thousand dollars (\$250,000). With respect to a contract that is exempted from certain provisions of Article 8 under this subdivision, the powers and duties set out in Article 8 shall be exercised by the Authority, and the Secretary of Administration and other State officers, employees, or agencies shall have no duties or responsibilities concerning the contract.
- (3) G.S. 143-341(3) does not apply to plans and specifications for construction or renovation authorized by the Authority that require the estimated expenditure of public money in an amount less than two hundred fifty thousand dollars (\$250,000).

(b) Notwithstanding the other provisions of this section, the services of the Department of Administration may be made available to the Authority, when requested by the Authority, with regard to matters governed by Article 8 of Chapter 143 of the General Statutes and G.S. 143-341(3). The Authority shall report quarterly to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, and the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources on any building contract to which this exemption is applied. The quarterly report required by this subsection shall specifically include information regarding the Authority's compliance with the provisions of G.S. 143-128.2. (1979, c. 459, s. 12; 1997-331, s. 2; 1999-368, ss. 1, 2; 2001-496, s. 3.2; 2013-211, s. 1; 2017-57, s. 14.1(p).)

**§ 113-315.37. Liberal construction of Article.**

It is intended that the provisions of this Article shall be liberally construed to accomplish the purposes provided for, or intended to be provided for, herein, and where strict construction would result in the defeat of the accomplishment of any of the acts authorized herein, and a liberal construction would permit or assist in the accomplishment thereof, the liberal construction shall be chosen. (1979, c. 459, s. 13.)

**§ 113-315.38. Warehouses, wharves, etc., on property abutting navigable waters.**

The powers, authority and jurisdiction granted to the North Carolina Marine Industrial Park Authority under this Article and Chapter shall not be construed so as to prevent other persons, firms and corporations, including municipalities, from owning, constructing, leasing, managing and operating warehouses, structures and other improvements on property they own, lease, or control abutting upon and adjacent to navigable waters and streams in this State, nor to prevent other persons, firms and corporations from constructing, owning, leasing and operating wharves, docks and piers associated with the warehouses, structures, and other improvements, nor to prevent other persons, firms and corporations from encumbering, leasing, selling, conveying or otherwise dealing with and disposing of the properties, facilities, lands and improvements after construction. (1979, c. 459, s. 14; 2013-211, s. 1.)

**§ 113-315.39. Taxation.**

The property of the Authority shall not be subject to any taxes or assessments. (1979, c. 459, s. 15; 2013-211, s. 1.)