

1 SB310
2 206414-1
3 By Senators Figures, Williams and Sessions
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 12-MAR-20

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8 SYNOPSIS: Current law provides that the director of
9 the Alabama State Port Authority may appoint nine
10 executive level employees.

11 This bill would provide that the director
12 may appoint up to 11 executive level employees.

13 This bill would also allow the Port
14 Authority to enter into employment contracts with
15 former employees for the transitional period
16 following their retirement, subject to certain
17 limitations.

18 This bill would also provide that the
19 commercial terms of certain contracts entered into
20 by the Port Authority are exempt from certain state
21 laws limiting confidentiality, with exceptions.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
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1 Relating to the Alabama State Port Authority; to
2 amend Sections 33-1-3, 33-1-12.1, and 33-1-39, Code of Alabama
3 1975; to provide for an increase in the number of executive
4 level employees which the director is entitled to appoint; to
5 authorize contracts with former employees of the authority; to
6 provide for an exemption from other laws that would require
7 disclosure of the commercial terms of contracts entered into
8 with customers of the authority or disclosure of reports that
9 would release certain customer-specific information; and to
10 provide for certain exceptions from those exemptions.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 33-1-3, Code of Alabama 1975, is
13 amended to read as follows:

14 "§33-1-3.

15 "The chief executive officer of the port authority
16 shall be known as the Director of the Alabama State Port
17 Authority. The director shall have no financial interest in
18 any harbor facilities or property that the port authority or
19 its predecessors have acquired or may acquire or manage, nor
20 shall the director have any financial or personal interest in
21 any business or enterprise of any sort which shall interfere
22 or be inconsistent with his or her duties as director. The
23 duties of the director shall be as follows:

24 "(1) Exercise the chief executive authority of the
25 port authority, and exercise, consistent with this chapter and
26 other applicable law, all the powers, authority, and duties

1 vested by this chapter or other applicable law in the port
2 authority.

3 "(2) Appoint, with the advice and consent of the
4 board of directors of the port authority, no more than ~~nine~~ 11
5 persons as executive level employees. These persons shall be
6 non-merit system employees and may replace current Merit
7 System executive level employees who retire or otherwise leave
8 the employment of the port authority. The director shall fix
9 the salaries of these non-merit system executive level
10 employees giving due consideration to the salaries of
11 comparable positions in other states and in private
12 industries. These non-merit system executive level employees,
13 though not participants in the classified service of the state
14 under the Merit System Act, shall be entitled to the other
15 benefits, including, but not limited to, retirement, sick and
16 annual leave, and insurance benefits afforded other state
17 employees, except that the board of directors of the port
18 authority may provide and fund an alternate benefit package
19 for them.

20 "(3) Employ, with the advice and consent of the
21 board of directors of the port authority, all persons
22 necessary to the efficient operation of the Alabama State Port
23 Authority, including a secretary-treasurer, fix their
24 conditions of employment and tenure in office, and be
25 responsible for the efficient discharge of their duties.

26 Section 2. Section 33-1-12.1, Code of Alabama 1975,
27 is amended to read as follows:

1 "§33-1-12.1.

2 "In addition to the powers conferred in this chapter
3 and by other applicable law, the port authority shall have the
4 following powers:

5 "(1) To have and use a corporate seal and to alter
6 the same at pleasure.

7 "(2) To exercise the right of eminent domain as
8 freely and completely, and in the same manner, as the state
9 has that power now or at any time hereafter, and the power of
10 eminent domain shall apply not only as to all property of
11 private persons or corporations but also as to property
12 already devoted to public use.

13 "(3) To acquire by purchase, gift, the exercise of
14 the power of eminent domain, or other lawful means, sell,
15 rent, lease, and otherwise dispose of real, personal, or mixed
16 property in its own name, and to construct, improve, renovate,
17 equip, and maintain the docks and its facilities.

18 "(4) To receive, take, and hold by sale, gift,
19 lease, devise, eminent domain, or other lawful means, real and
20 personal estate of every description in its own name, and to
21 manage the same.

22 "(5) To appoint and employ attorneys, accountants,
23 financial advisors, underwriters, trustees, depositories,
24 registrars, and other advisors, agents, and independent
25 contractors as the business of the docks may require.

26 "(6) To enter into contracts with municipalities,
27 counties, agencies, or political subdivisions of the state or

1 any other state, private persons, firms, corporations, and any
2 branch of the federal government, in furtherance of its public
3 purposes and objects, and as necessary and convenient to the
4 exercise of its other powers and to the discharge of its
5 duties and obligations, either relative to work done or to be
6 done.

7 "(7)a. Notwithstanding Section 36-25-13, and
8 supplemental to the authority granted in that section, to
9 contract with a person who previously was employed by the
10 authority in any capacity for the specific purpose of
11 providing assistance to the authority during the transitional
12 period following retirement, but only if all of the following
13 conditions are met:

14 "1. The contract is approved by the board of
15 directors upon a finding that the contract will be beneficial
16 to the operations of the port authority and its facilities.

17 "2. The contract does not extend for more than 12
18 months, subject to renewal, and no such contract may extend
19 beyond five years following the date of retirement.

20 "3. The contract provides that the retiree is not
21 entitled to accrue additional retirement benefits or to
22 receive health insurance or other employment benefits made
23 available to merit system and non-merit system employees.

24 "4. The contract is submitted to and approved by the
25 Director of the Ethics Commission as satisfying the above
26 conditions prior to the date the retiree begins work under the
27 contract.

1 "b. Any retiree who enters into a contract permitted
2 by this subdivision shall not be deemed to be in violation of
3 Section 36-25-13(c).

4 Section 3. Section 33-1-39, Code of Alabama 1975, is
5 amended to read as follows:

6 "§33-1-39.

7 "(a) All contracts of the Alabama State Docks
8 Department, now known as the Alabama State Port Authority,
9 shall be in writing to precisely the same extent, and shall be
10 approved and executed in precisely the same manner, as such
11 contracts are on August 1, 2000, except that, where approval
12 of the Governor has been required, approval of the board shall
13 henceforth be required instead.

14 "(b) (1) Notwithstanding any other provision of law,
15 both of the following contractual information of the authority
16 shall be exempt from the requirements of the laws of the state
17 restricting confidentiality of documents, including, but not
18 limited to, any open records or similar law:

19 "a. All commercial terms of any contract or
20 agreement entered into with a customer of the authority in the
21 course of the authority's business, whether before or after
22 the effective date of the act amending this code section.

23 "b. Any report or other record that would disclose
24 customer-specific information with respect to cargo volume,
25 shipping prices, or other commercially sensitive information.

26 "(2) The exemption in this subsection shall not
27 apply to any of the following:

1 "a. The existence of any contract or agreement
2 exempted under subdivision (1).

3 "b. The terms of any financing instrument entered
4 into by the authority, as borrower or guarantor.

5 "c. The base rents or lease payments due under any
6 lease of real property by or from the authority.

7 "(3) Upon request, the authority shall furnish a
8 copy of an contract or agreement exempted under subdivision
9 (1), but shall redact the commercial terms and other portions
10 exempted under subdivision (1)."

11 Section 4. This act shall become effective
12 immediately following its passage and approval by the
13 Governor, or its otherwise becoming law.