

1 HB179
2 208714-1
3 By Representative Clarke
4 RFD: State Government
5 First Read: 02-FEB-21
6 PFD: 01/28/2021

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

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

This bill would also provide for an exemption from other laws that would require disclosure of the commercial terms of contracts entered into with customers of the authority or disclosure of reports that would release certain customer-specific information; and to provide for certain exceptions from those exemptions.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT

1 Relating to the Alabama State Port Authority; to
2 amend Sections 33-1-3 and 33-1-39, Code of Alabama 1975; to
3 provide for an increase in the number of executive level
4 employees which the director is entitled to appoint; to
5 provide that the commercial terms of certain contracts entered
6 into by the Port Authority are exempt from certain state laws
7 limiting confidentiality, with exceptions; and to make
8 nonsubstantive, technical revisions to update the existing
9 code language to current style.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

13 "§33-1-3.

14 "The chief executive officer of the port authority
15 shall be known as the Director of the Alabama State Port
16 Authority. The director ~~shall have no~~ may not have any
17 financial interest in any harbor facilities or property that
18 the port authority or its predecessors have acquired or may
19 acquire or manage, ~~nor shall the director~~ and may not have any
20 financial or personal interest in any business or enterprise
21 of any sort which ~~shall interfere~~ interferes or ~~be is~~
22 inconsistent with his or her duties as director. The duties of
23 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~~
5 ~~persons~~ 11 individuals as executive level employees. These
6 ~~persons~~ individuals shall be non-merit system employees and
7 may replace current Merit System executive level employees who
8 retire or otherwise leave the employment of the port
9 authority. The director shall fix the salaries of these
10 non-merit system executive level employees giving due
11 consideration to the salaries of comparable positions in other
12 states and in private industries. These non-merit system
13 executive level employees, though not participants in the
14 classified service of the state under the Merit System Act,
15 shall be entitled to the other benefits, including, but not
16 limited to, retirement, sick and annual leave, and insurance
17 benefits afforded other state employees, except that the board
18 of directors of the port authority may provide and fund an
19 alternate benefit package for them.

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

26 Section 2. Section 33-1-39, Code of Alabama 1975, is
27 amended to read as follows:

1 "§33-1-39.

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

9 "(b) (1) Notwithstanding any other provision of law,
10 both of the following contractual information of the authority
11 shall be exempt from the requirements of the laws of the state
12 restricting confidentiality of documents, including, but not
13 limited to, any open records or similar law:

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

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

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

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

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

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

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

7 Section 3. This act shall become effective
8 immediately following its passage and approval by the
9 Governor, or its otherwise becoming law.