Fiscal Note & Local Impact Statement

122 nd General Assembly of Ohio

BILL: **S.B. 210** DATE: **March 17, 1998**

STATUS: **As Introduced** SPONSOR: **Sen. Oelslager**

LOCAL IMPACT STATEMENT REQUIRED: **No — Permissive**

CONTENTS: **To revise the powers and duties of port authorities, to enhance avenues of cooperation between port authorities and other political subdivisions, to make other changes in laws governing port authorities and to declare an emergency.**

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1998	FY 1999	FUTURE YEARS
Port authorities			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential increase	Potential increase
Certain municipalities			
Revenues	- 0 -	Potential loss	Potential loss
Expenditures	- 0 -	- 0 -	- 0 -

- Reduces outstanding debt for certain port authorities by deleting required compensation of municipal corporations by pre- and post- 1982 port authorities for waterfront investment.

- For the two port authorities (Cleveland-Cuyahoga and Western Reserve) impacted by the change in law for special police offices, costs would increase for peace officer training and PERS contributions.

- Expansion of bonding authority could lead to more annual debt service expenditures for some port authorities.

Detailed Fiscal Analysis

This bill would revise the powers and duties of port authorities, enhance avenues for cooperation among port authorities and other political subdivisions, make other changes in laws governing port authorities, and declare an emergency.

Background

Ohio's port authorities are primarily governed by Section 4582 of the Ohio Revised Code. Through an official act of a municipal corporation, a township, a county or any combination of any of these local governments, a port authority can be created. A board of directors, the size of which is determined by the creating authority or authorities, governs each port authority. Board members are appointed by the local governments responsible for creating the port authority, and serve for a term of four years. Any political subdivision within the jurisdiction of a port authority may appropriate and expend public funds to finance or subsidize the activities of the port authority.

Currently, 23 port authorities are believed to be operating in Ohio (See Attachment 1); the exact number is not known because these entities are creations of local governments. The only state-level oversight of port authorities required by law is the receipt of financial audit reports by the Office of the Auditor of State.

A port authority's board of directors must annually approve appropriation measures and subsequent amendments. The Ohio Revised Code requires that port authority appropriations cannot exceed estimated resources. The ORC also requires the county budget commission to certify the annual estimates of resources; in practice, this certification verifies only the estimates of anticipated property tax receipts, if any exist.

Establishing and maintaining a port authority's internal fiscal structure is the day-to-day responsibility of the port authority's management team. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structures policies and procedures.

OUTLINE OF ISSUES:

- *Expands, for pre- and post- 1982 port authorities, the training requirement for port authority special police officers.*

  Currently, a port authority may employ special police officers to enforce its regulations and maintain order. But at the same time, a port authority is prohibited from employing a person to work as an *armed* special police officer, security guard, or other position unless the person is duly certified as a peace officer or has completed 20 years of active duty as a peace officer. The bill would define a port authority special police officer as a "peace officer," require peace officer training certification by the Executive Director of the Ohio Peace Office Training Commission, and make these officers public employees eligible to participate in the Public Employees Retirement System.

The fiscal impact of this provision would be minimal. Currently, only two port authorities contract out for their security services. According to the Peace Officer Training Council, the minimum requirement to receive a peace officer certificate is 450 hours of training. The 16-week program costs $2,695 per candidate. Annual updates involving a firearms retraining program are usually done for minimal fees, mostly covering the cost of ammunition.

- *Expands for pre- and post- 1982 port authorities, insurance procurement for employees and their families.*

  The fiscal impact of this provision would be minimal. Of the 354 port authority employees documented, 220 are municipal employees already eligible for insurance benefits, regardless of their full-time or part-time status.

- *Modifies for pre- and post- 1982 port authorities, authority of a port authority regarding the acquisition, control and disposition of real and personal property.*

  See attachment 2 for examples of recent Controlling Board action involving port authorities.

  The fiscal impact of this provision has not yet been determined.

- *Modifies for pre- and post- 1982 port authorities the bonding authority of port authorities.*

  Currently only the state, a county or a municipal corporation has the explicit authority to issue Industrial Revenue Bonds. Furthermore, the issuing authorities for these bonds includes only the state's director of development, a municipal corporation's legislative authority or a county's board or commissioners or their designee. The bill would allow a port authority to issue Industrial Revenue Bonds independently of its creating authorities, and would also identify a port authority's board of directors as an issuing authority.

  The fiscal impact of this provision is currently being researched.

- *Eliminates for pre- and post- 1982 port authorities requirements for a port authority to submit proposals, advertise bids and other procurement procedures for accepting the best qualified bidder.*

  The fiscal impact of this provision is currently being researched.

- *Permits a pre- or post- 1982 port authority to contract with foreign countries or governments.*

  While the fiscal impact of this provision is currently being researched, it appears that this change relates to certain port authorities that also monitor foreign trade zone activity.

- *Raises from $10,000 to $25,000 the threshold for notice and competitive bidding requirements, and provides for exceptions to the competitive bidding requirements for pre- and post- 1982 port authorities.*

  The fiscal impact of this provision is currently being researched.

- *Modifies investment authority of a post- 1982 port authority.*

  The fiscal impact of this provision is currently being researched.

- *Adds special police officers employed by a port authority to the definition of law enforcement officer.*

  Currently two port authorities hire private sector security personnel for their security needs. The bill would enable a port authority to employ its own special police officers. These special police officers would be required to hold a valid certificate issued by the Ohio Peace Officer Training Commission and would be considered as public employees for the purpose of eligibility for retirement under the Public Employees Retirement System. Contributions to PERS would increase costs for two port authorities.

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Attachment 2
Selected Controlling Board Requests Involving Port Authorities

Rock and Roll Hall of Fame/Cleveland-Cuyahoga County Port Authority

On February 9, 1993, the Controlling Board approved a request from the Department of Development to support the construction of a $94.6 million facility to house the Rock and Roll Hall of Fame and Museum as a component of the North Coast Harbor development. The action activated a $42 million Direct Loan Guarantee ($2.1 million annually for 20 years), which secured a portion of the annual debt service on $38.9 million in tax-exempt revenue bonds issued by the Cleveland-Cuyahoga County Port Authority.

Policy issues discussed at the time of the loan guarantee included the Rock Hall's non-profit, tax exempt status, and the continuation of the hotel "bed" tax to secure potential funding shortfalls.

Ohio EPA/Rickenbacker Port Authority/Lazarus

On November 3, 1997, the Controlling Board approved a request from DAS Real Estate Services (representing the interest of Ohio EPA) to sublease 215,037 square feet of the Lazarus Office Complex from the Rickenbacker Port Authority. The action activated a new, 30-year lease agreement (valued at $98 million) for government office space and supported an additional $21 million in private building renovations funded by proceeds from the sale of tax-free municipal bonds issued by the port authority. The facility remains privately owned throughout the agreement.

Several policy issues surfaced during the Controlling Board's deliberations. Among them was the size of the agreement, the capability of the port authority to manage the project, and the use of tax-free financing instruments to support extensive renovation of private space *without* generating any additional economic activity. First, the request reflected the single largest leasing arrangement ever to house state agency office operations from a *private owner*. Critical to the structure of the deal was Rickenbacker's position as financial manager to perform several tasks: 1) to initiate the primary lease agreement with Lazarus, 2) to issue long-term, tax-free municipal bonds to pay for tenant improvements, 3) to administer the sublease with DAS Real Estate, and 4) to coordinate debt service payments. The amount of money needed to renovate the building drove the bond issue, which in turn drove the terms of the lease agreement. The cost-effectiveness of this process remained unaddressed. Second, while it had some experience managing bond issues, the port authority had no practical experience overseeing tenant improvements. With no staff expertise available, EPA's spatial needs were met through DAS specifications and DAS' existing relationship with the construction firm performing the work. And third, the long-term benefits of renovating a 1940s vintage building would remain in the private sector, without creating new private sector jobs. This lack of additional economic activity to downtown Columbus was overshadowed by the deal's short-term benefits to the state, including consolidated operations for EPA (four years in the making), cheaper rental rates for leased space and no additional debt service (to the state) for capital