

FISCAL BRIEF



DETROIT-WAYNE COUNTY PORT AUTHORITY

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FAST FACTS

- Michigan’s Port Authority Act, Public Act 639 of 1979, authorizes the establishment of port authorities by a combination of counties or a combination of counties and cities.
- Public Act 639 defines the powers of port authorities.
- Only one port authority is organized under Public Act 639, the Detroit Wayne County Port Authority, incorporated by the city of Detroit and Wayne County in 1981.
- The state provides some support to the Detroit Wayne County Port Authority through appropriations in the state transportation budget.

INTRODUCTION

The Detroit Wayne County Port Authority (DWCPA) is a port authority organized under Public Act 639 of 1979. The DWCPA was incorporated in 1981 by the city of Detroit and Wayne County. The DWCPA is, to date, the only port authority established under Public Act 639.

STATUTORY AUTHORITY FOR PORT AUTHORITIES

The current statute authorizing the establishment of port authorities in Michigan was enacted in 1978 as Public Act 639 of 1978 (MCL 120.101), with an effective date of January 11, 1979.

Public Act 639 of 1978 contained a repealer to the previous port authority statute, Public Act 234 of 1925, subject to the reorganization of existing port authorities under the new act. The cities of Detroit and Monroe had each established port authorities under Public Act 234. The city of Detroit’s port commission was reorganized as the Detroit/Wayne County Port Authority (DWCPA) under the authority of Public Act 639. The DWCPA was incorporated in 1981 and is, to date, the only port authority established under Public Act 639. The city of Monroe’s port authority still operates a marine terminal under the authority of Public Act 234.

DWCPA ORGANIZATION AND FUNDING

According to Public Act 639, port authorities may be incorporated by a combination of counties or a combination of counties and cities. The DWCPA, as its name implies, has just two incorporators: the city of Detroit, and the county of Wayne.

Section 5 of Public Act 639 governs the composition and appointment of the board. As provided in Section 5, the DWCPA has a five-member board of directors: one appointed by the Governor, two appointed by the city of Detroit, and two appointed by the county of Wayne. Board members serve four-year staggered terms.

Public Act 639 requires the state, through the Michigan Department of Transportation budget, to provide 50% of the port authority’s operating budget,

subject to legislative approval. The balance of the operating budget is to be provided by the participating county and city equally. The act also requires approval of the port authority's budget by both the Michigan Department of Transportation and the former Michigan Department of Commerce¹.

The DWCPA general operating budget is approximately \$1.1 million (based on FY 2016 and FY 2017 adopted budgets). For a number of years the state has provided support for the DWCPA through an appropriation in the state Transportation budget. In recent years the appropriation ranged from \$500,000 (FYs 2001-02 through 2008-09) to \$468,200 (FYs 2009-10 through 2016-17). The appropriation was reduced to \$200,000 in the FY 2017-18 Transportation budget – less than the 50% share required under Public Act 639.

The FY 2018-19 enacted budget provides \$418,200 in state support. The fund source for the state appropriation is the state-restricted Comprehensive Transportation Fund (CTF). The DWCPA operating budget supports staff salaries, facility operations and maintenance, and other general administration costs.

The DWCPA operates out of the Detroit Wayne County Port Authority Dock and Terminal, 130 E. Atwater Street, Detroit, Michigan. The facility is on the Detroit River adjacent to the Renaissance Center. The facility, which opened in 2011, was constructed primarily with federal grant funding, with matching funds provided by the state of Michigan. The DWCPA currently leases part of the building space to a catering company that uses it for special public and private events. This rental provides approximately \$300,000 each year to the DWCPA.

STATUTORY AUTHORITY OF PORT AUTHORITIES

Public Act 639 gives port authorities substantial authority, including the authority to: “Acquire, construct, reconstruct, rehabilitate, improve, maintain, lease as lessor or as lessee, repair, or operate port facilities within its territorial jurisdiction, including the dredging of ship channels and turning basins and the filling and grading of land therefor.”

The act also grants authority for the issuance of revenue bonds, “for the purpose of providing funds for paying the cost of port facilities, or for paying the cost of an extension, enlargement, or improvement of a project then under the control of the authority.” The definitions of “port facilities” and “project” effectively limit port authority projects to facilities owned by the port authority.

The act authorizes a port authority to lease certain port facilities owned by the port authority and to impose and collect dockage and wharfage fees for the use of port authority facilities. The act also allows port authorities to apply for and receive federal, state, municipal agency, foundation, or other public or private agency grants and loans for the “planning, construction, operation, or financing of a port facility.”

Public Act 639 act also grants to port authorities limited condemnation authority “for the construction or efficient operation of a project.” However the act exempts from the scope of this condemnation authority certain currently operating port authorities, and certain facilities owned and operated by and for a common carrier or public utility.

¹ The authorities of the former Michigan Department of Commerce have been assumed by the Michigan Department of Licensing and Regulatory Affairs.

Although Public Act 639 granted port authorities fairly broad powers, in its 40-year history the DWCPA has not exercised those powers to a significant degree. The agency has been engaged primarily in the promotion of the Port of Detroit. The DWCPA has also administered various state and federal grants related to riverfront development, environmental protection, and port security.

The DWCPA has used its financing authority only once, in 2005, when the DWCPA partnered with General Motors Corporation in financing a mixed-use GM facility on the Detroit River waterfront. The DWCPA does not currently operate a port facility.

PORT OF DETROIT REHABILITATION/MASTER CONCESSION AGREEMENT

In 2005, the DWCPA acquired property and a port terminal on the Detroit River south of the Ambassador Bridge at the foot of Clark Street in Southwest Detroit. The property had been owned by the city of Detroit and leased to the Detroit Marine Terminal Company (DMT). The property contained two parcels, a 3.64 acre “warehouse” parcel, and 31.3 acre parcel immediately to the north of the smaller warehouse parcel. The warehouse is an abandoned 10-story 900,000 square foot facility completed in 1926. The larger parcel contains a port terminal that had been operated by DMT as a general freight terminal through 2003.

The DMT freight terminal was one of only two general freight terminals operating at the Port of Detroit, and the only operating terminal within the Detroit city limits. Because of concerns that the property would be lost as a marine freight terminal after DMT ended operations, the DWCPA explored options for acquiring the property and rehabilitating, and expanding the freight terminal.

In its 2005 Operations Assessment and Five-Year Work Plan, the DWCPA reported that it had completed negotiations to acquire the DMT property and partner with an operator. The DWCPA indicated that after acquiring the property, the DWCPA would issue revenue bonds to invest in “substantial infrastructure improvements to stimulate these sites, thus promoting economic growth.” The DWCPA did not issue bonds but instead acquired that property as part of a 2005 Master Concession Agreement.

The 2005 Master Concession Agreement is an agreement between the DWCPA and the Ambassador Port Company. The agreement granted the Ambassador Port Company an exclusive concession to operate and manage a port facility in and around the former DMT property. The original concession term was from the date of execution through March 31, 2013. The agreement provides for three subsequent 25-year extensions at option of the concessionaire, the Ambassador Port Company.

The agreement set various financial obligations between the parties, including the execution of a \$2.1 million Promissory Note by the DWCPA in favor of the concessionaire. The Promissory Note recognizes money advanced by the Ambassador Port Company to the DWCPA. The DWCPA used the \$2.1 million to retire bonds that had been issued related to the DMT property. In effect, retiring the bonds released an encumbrance on the property that allowed DWCPA to acquire title to the property.

Although there were only two direct parties to the Master Concession Agreement, the DWCPA and the Ambassador Port Company, the agreement was apparently contingent on the actions of two other entities. The agreement depended on the city of Detroit agreeing to transfer the DMT properties to the DWCPA. The agreement also

recognized Nicholson Terminal and Dock Company as the facility operator. Nicholson, a privately held company founded in 1928, also owns and operates another general freight facility on the Detroit River in Ecorse, Michigan.

During its 2004-05 fiscal year, as provided under the Master Concession Agreement, the DWCPA issued a \$2.1 million Promissory Note in favor of the Ambassador Port Company. As of September 30, 2017, after 10 years and \$1.7 million in payments, the Note Payable balance was \$2.0 million, 96% of the original Promissory Note.

The DWCPA's FY 2016-17 financial statements identify revenue generated from the DWCPA's Master Concession Agreement with the Ambassador Port Company of \$187,232; this figure represents a reduction of approximately 9% as compared to \$205,720 for FY 2015-16.