

## 2020 Kansas Statutes

**12-3406. Same; statement of purpose and character of work to be undertaken; general powers and authority; limitations.** A port authority established by K.S.A. 12-3402, and amendments thereto, shall clearly state the purpose for which it is to be created and the character of the work to be undertaken as a part of its official plan; and shall have full power and authority to:

(a) Purchase, acquire, construct, reconstruct, improve, equip, furnish, maintain, repair, enlarge, remodel, own, sell, lease, and operate docks, wharves, warehouses, piers, and other water-port facilities, airport facilities, terminal facilities, land transportation facilities, railroad facilities or industrial-use facilities within the area of its jurisdiction, as defined by K.S.A. 12-3405, and amendments thereto, consistent with the purpose of the port authority, which purpose is hereby declared to be for a public purpose;

(b) (1) borrow money from private financial institutions, any agency of the state of Kansas or of the United States of America or a private person or entity approved by the port authority, and to issue therefor such notes or other evidence of indebtedness as may be required and to mortgage, pledge, or otherwise encumber the assets of the authority as security therefor, or (2) issue bonds as provided in K.S.A. 12-3415, and amendments thereto;

(c) apply for, receive, and participate in any grants from the state of Kansas or from the United States of America;

(d) construct, straighten, deepen, and improve any canal, channel, river, stream, or other watercourse or way which may be necessary or proper in the development of the facilities of such port;

(e) purchase, acquire, own, maintain, furnish, improve, repair, enlarge, remodel, construct, reconstruct, equip, hold, sell, lease, or operate real or personal property for the authorized purposes of the port authority, which exercise of such authority is hereby declared to be for a public purpose;

(f) apply to the proper authorities of the United States government for a grant within the limits of the port authority either individually or in conjunction with a corporate instrumentality of this state and one or more states, or a bi-state compact or a not-for-profit corporation authorized to do business in this state and to establish, operate and maintain foreign trade zones pursuant to the foreign trade-zone act, 19 U.S.C.A. §§ 81a to 81u, inclusive, as amended;

(g) exercise the right of eminent domain, if approved by a 2/3 vote of the governing body of the port authority, to appropriate any land, rights, rights-of-way, franchises, easements, or other property, necessary or proper for the construction or the efficient operation of any facility of the port authority and included in an official plan, pursuant to the procedure provided by law, if funds equal to the appraised value of the property to be acquired as the result of such proceedings shall be on hand and available for such purposes. The port authority shall not exercise the right of eminent domain without first having received approval, by resolution, of the governing body of the city or county which created such port authority. If the port authority was created by two or more cities or counties, the port authority shall not exercise the right of eminent domain without first having received approval, by resolution, of the governing body of the city or county in which such property is located. If such property is located outside the boundaries of the port authority, such port authority shall not exercise the right of eminent domain without first having received approval, by resolution, of the governing body of the city if such property is located within the corporate limits of a city or from the board of county commissioners if such property is located within the unincorporated area of a county. A port authority shall not have the right of eminent domain to acquire a site for an industrial-use facility. A port authority shall not have the right of eminent domain to acquire any land or site in Cowley county for which at least one of the purposes is a recreational-use purpose. If a port authority exercises the right of eminent domain to acquire any land or site in Cowley county, such land or site shall be used only for the public purpose stated in the port authority's original official plan and there shall be no private development on any such land or site for a period of 30 years after the acquisition of any such land or

site. A port authority shall not exercise the right of eminent domain to acquire any land or site prior to a showing that all required state and federal permits to use or develop any such land or site in the manner specified in the port authority's official plan have been obtained.

Nothing contained in K.S.A. 12-3401 to 12-3433, inclusive, and amendments thereto, shall authorize a port authority to take or disturb property or facilities belonging to any public corporation, public utility, or common carrier, which property or facilities are necessary and convenient in the operation of such public corporation, public utility, or common carrier, unless provision is made for the restoration, relocating, or duplication of such property or facilities, or upon the election of such public corporation, public utility, or common carrier for the payment of compensation, if any, at the sole cost of the port authority.

If any restoration or duplication proposed to be made hereunder shall involve a relocation of such property or facilities, the new facilities and location shall be of at least comparable utilitarian value and effectiveness and such relocation shall not impair the ability of the public utility or common carrier to compete in its original area of operation.

If any restoration or duplication made hereunder shall involve a relocation of such property or facilities, the port authority shall acquire no interest or right in or to the appropriated property or facilities, except as provided in subsection (c) of K.S.A. 12-3406, and amendments thereto, until the relocated property or facilities are available for use and until marketable title thereto has been transferred to the public utility or common carrier.

Provisions for restoration, relocation, or duplication shall be described in detail in the plan specified in K.S.A. 12-3407, and amendments thereto;

(h) maintain such funds as it deems necessary;

(i) direct its agents or employees, when properly identified in writing, and after at least five days' written notice, to enter upon lands within the confines of its jurisdiction in order to make surveys and examinations preliminary to location and construction of works for the purposes of the port authority, without liability of the port authority or its agents or employees except for actual damage done;

(j) sell, lease or convey real and personal property not needed for the operation of the port authority and grant easements of rights-of-way over property of the port authority; and

(k) promote, advertise, and publicize the port and its facilities; provide traffic information and rate information to shippers and shipping interests.

**History:** L. 1969, ch. 89, § 6; L. 1973, ch. 60, § 2; L. 1980, ch. 70, § 5; L. 1981, ch. 76, § 4; L. 1987, ch. 75, § 5; L. 2003, ch. 28, § 1; L. 2004, ch. 110, § 2; Apr. 22.