

# HOUSE BILL No. 4868

June 2, 2005, Introduced by Reps. Kathleen Law, Tobocman, Espinoza, Plakas, Meisner, McDowell, Hopgood, Accavitti, Farrah, Donigan, Sheltroun, Spade, Bennett, Polidori, Clemente, Dillon, Leland and Waters and referred to the Committee on Transportation.

A bill to create the Detroit river crossing authority; to prescribe the powers and duties of the authority; to provide for certain regulations at border crossings; to provide for certain tolls and charges; to allow the authority to issue bonds; and to provide for penalties.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the  
2 "Detroit river crossing authority act".

3           Sec. 2. As used in this act:

4           (a) "Authority" means the Detroit river crossing authority  
5 created by section 4.

6           (b) "Bonds" or "revenue bonds" means revenue bonds of the  
7 authority issued under this act.

1 (c) "Border crossing" means a border crossing constructed  
2 after the effective date of this act between the United States and  
3 Canada over any portion of the Detroit river and includes a bridge  
4 or tunnel, overpasses, underpasses, entrance plazas, toll houses,  
5 administration, storage, and other buildings and facilities,  
6 equipment, and highway approaches necessary to facilitate the flow  
7 of traffic at a border crossing.

8 (d) "Cost" means the cost of construction, acquisition, and  
9 such other expenses necessary or incident to the operation,  
10 maintenance, repair, or improvement of the border crossing.

11 (e) "Person" means an individual, partnership, association,  
12 corporation, or any other legal entity having title or interest in  
13 any property, rights, or easements authorized under this act.

14 Sec. 3. (1) Revenue bonds issued under this act do not  
15 constitute a debt of the state or of any political subdivision or a  
16 pledge of the full faith and credit of the state or any political  
17 subdivision and are payable solely from the funds provided from  
18 revenues. All revenue bonds shall contain on their face a statement  
19 to the effect that neither the state nor the authority is obligated  
20 to pay on the bonds except from revenues of the border crossing and  
21 that neither the full faith and credit nor the taxing power of the  
22 state or a political subdivision is pledged to the payment of the  
23 principal or interest on the bonds.

24 (2) All expenses incurred in carrying out this act are payable  
25 solely from funds provided under this act, and no liability or  
26 obligation shall be incurred by the authority beyond the extent to  
27 which money has been provided under this act.

1           Sec. 4. (1) The Detroit river crossing authority is created  
2 within the state transportation department.

3           (2) The authority shall consist of the following 7 voting  
4 members:

5           (a) The director of the state transportation department or the  
6 director's designee.

7           (b) The director of the department of labor and economic  
8 growth or the director's designee.

9           (c) The director of the department of natural resources or the  
10 director's designee.

11           (d) One member appointed by the governor who is a  
12 representative of a county in which a crossing may be located under  
13 this act.

14           (e) One member appointed by the governor who is a  
15 representative of a municipality in which a crossing may be located  
16 under this act.

17           (f) Two members appointed by the governor who are residents  
18 living within 10 miles of the Detroit river.

19           (3) The authority shall have all of the following powers and  
20 duties:

21           (a) To adopt bylaws for the regulation of its affairs and the  
22 conduct of its business.

23           (b) To adopt an official seal.

24           (c) To maintain an office within 10 miles of the Detroit  
25 river.

26           (d) To sue and be sued in its own name.

27           (e) To determine the design standards and the materials of

1 construction for a border crossing.

2 (f) To construct, maintain, repair, and operate a border  
3 crossing.

4 (g) To issue revenue bonds of the authority for any of its  
5 corporate purposes, payable solely from the tolls and revenues  
6 pledged for their payment, and to refund its bonds as provided  
7 under this act.

8 (h) To establish and revise from time to time and charge and  
9 collect tolls and other charges for the use of the border crossing.

10 (i) To establish rules and regulations for the border  
11 crossing.

12 (j) To acquire, hold, and dispose of real and personal  
13 property in the exercise of its powers and the performance of its  
14 duties under this act.

15 (k) To make and enter into all contracts and agreements  
16 necessary or incidental to the performance of its duties and the  
17 execution of its powers under this act.

18 (l) To employ consulting engineers, attorneys, accountants,  
19 construction and financial experts, superintendents, managers, and  
20 other employees and agents as may be necessary in its judgment and  
21 to fix their compensation.

22 (m) To receive and accept from any federal agency grants for  
23 or in aid of the construction, repair, or improvement of a border  
24 crossing and to receive and accept aid or contributions from any  
25 source of money, property, labor, or other things of value, to be  
26 held, used, and applied only for the purposes for which the grants  
27 and contributions may be made.

1           (n) To enter into contracts and leases to provide for the  
2 development and use of any real property owned by the authority in  
3 the United States or Canada for customs brokering or for the sale  
4 of articles for export and consumption outside the United States or  
5 Canada, respectively, to the extent that this use is not restricted  
6 by federal or Canadian law. The authority shall obtain proposals  
7 before entering into any contracts or leases for the development  
8 and use of its real property for the sale of articles for export  
9 and consumption outside of the United States. The authority shall  
10 advertise for proposals once each week for 2 successive weeks in a  
11 newspaper of general circulation in this state. The authority shall  
12 open and examine all proposals at a public meeting of the  
13 authority. The authority may reject any or all proposals and shall  
14 readvertise, in the event of rejection of all proposals, in the  
15 manner required by this section. This subdivision does not exempt a  
16 person from the payment of any motor fuel, sales, or other taxes  
17 required to be paid under the laws of this state on articles or  
18 fuel sold or brought into this state irrespective of whether the  
19 articles or fuel is for export or consumption outside the United  
20 States or Canada.

21           (o) To enter into an interlocal agreement with the owner of  
22 the Canadian portion of a border crossing or its authorized agent,  
23 to provide for joint operational and policy oversight and for  
24 operation, maintenance, repair, and improvement of the border  
25 crossing in the United States and Canada.

26           (p) To take any action necessary or convenient to carry out  
27 the powers granted under this act.

1           (q) To participate in any project that can improve the flow of  
2 traffic over a crossing.

3           (4) Nothing in this act or an interlocal agreement shall  
4 preclude the joint United States-Canadian body created under the  
5 interlocal agreement entered into under subsection (3)(o) from  
6 appraising the fair market value of assets, from exploring  
7 opportunities to create efficiencies, or from studying proposals  
8 that may maximize the value of assets associated with the border  
9 crossing and be in the best interest of the people of this state.

10           Sec. 5. If taxes or assessments are imposed by law in Canada  
11 on the Canadian portion of the border crossing to be paid from  
12 border crossing revenue under an interlocal agreement entered into  
13 under section 3(2)(o), an equal sum may be expended in this state  
14 from border crossing revenue for purposes similar to those of the  
15 taxes or assessments. If taxes or assessments are paid directly to  
16 a Canadian local unit of government, an equal sum shall be paid  
17 directly to the local unit of government in which the border  
18 crossing is located.

19           Sec. 6. (1) The authority is authorized to acquire by purchase  
20 solely from funds provided under this act or to dispose of lands,  
21 structures, property, rights, rights-of-way, franchises, easements,  
22 and other interests in lands, including lands lying under water and  
23 riparian rights, which are located within or outside the border  
24 crossing property, as it considers necessary or convenient for the  
25 construction, repair, improvement, and operation of the border  
26 crossing, upon such terms and at such prices as it considers to be  
27 reasonable.

1           (2) The authority is authorized to acquire by condemnation or  
2 by eminent domain any lands, property, rights, or property interest  
3 considered necessary for the construction, repair, or improvement  
4 or the efficient operation of the border crossing. Any proceedings  
5 under this subsection shall be conducted under the uniform  
6 condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75.

7           (3) If the owner, lessee, or occupier of any property to be  
8 condemned refuses to remove his or her personal property from the  
9 property or give up possession of the property, the authority may  
10 proceed to obtain possession in any manner provided by law.

11           Sec. 7. (1) The authority is authorized to provide for the  
12 issuance of revenue bonds of the authority for the purpose of  
13 paying all or any part of the cost of the border crossing. The  
14 principal of and the interest on the bonds are payable solely from  
15 the funds provided for the payment. The bonds shall be dated, bear  
16 interest at a rate not exceeding 6% per annum, mature at a time not  
17 exceeding 40 years from the date issued, and made redeemable before  
18 maturity at a price and under such terms and conditions as fixed by  
19 the authority before the issuance of the bonds.

20           (2) The authority shall determine the form of the bonds,  
21 including any interest coupons to be attached to the bonds, and fix  
22 the denomination of the bonds and the place of payment of the  
23 principal and interest.

24           (3) The bonds shall be signed by the chairperson of the  
25 authority or shall bear his or her facsimile signature, and the  
26 official seal of the authority shall be impressed or imprinted and  
27 attested by the secretary-treasurer of the authority. In case any

1 officer whose signature appears on any bonds or coupons ceases to  
2 be an authorizing officer before the delivery of the bonds, the  
3 signature shall be valid and sufficient for all purposes.

4 (4) The bonds may be issued in coupon or in registered form,  
5 or both. The authority may sell the bonds in such manner and for a  
6 price as it may determine will best effect the purposes of this  
7 act. The proceeds of the bonds shall be used solely for the payment  
8 of the cost of the border crossing and shall be disbursed in a  
9 manner and under such restrictions as the authority may provide in  
10 the resolution authorizing the issuance of the bonds.

11 (5) If the proceeds of the bonds are less than the cost of the  
12 border crossing, additional bonds may be issued to provide the  
13 amount of the deficit and shall be considered to be of the same  
14 issue and entitled to payment from the same fund without preference  
15 or priority of the bonds first issued. If the proceeds of the bonds  
16 exceed the cost of the border crossing, the surplus shall be  
17 deposited to the credit of the sinking fund for the bonds.

18 (6) Before the preparation of definitive bonds, the authority  
19 may issue interim receipts or temporary bonds, with or without  
20 coupons, exchangeable for definitive bonds when the bonds have been  
21 executed. The authority may also provide for the replacement of any  
22 bonds that become mutilated or destroyed or lost. Bonds may be  
23 issued under this act without obtaining the consent of any  
24 department, division, commission, board, bureau, or agency of the  
25 state.

26 Sec. 8. (1) In the discretion of the authority, the bonds  
27 issued under this act may be secured by a trust agreement between



1 the authority and a corporate trustee, which may be any trust  
2 company or bank having the powers of a trust company within or  
3 outside of this state. The trust agreement or the resolution  
4 providing for the issuance of the bonds may pledge or assign the  
5 tolls and other revenues to be received, but shall not convey or  
6 mortgage the border crossing.

7 (2) Any trust agreement under this section may set forth the  
8 rights and remedies of the bondholders and of the trustee and may  
9 restrict the individual right of action by bondholders. In addition  
10 to the foregoing, any trust agreement or resolution may contain  
11 other provisions as the authority considers reasonable and proper  
12 for the security of the bondholders.

13 (3) All expenses incurred in carrying out the trust agreement  
14 or resolution may be treated as a part of the cost of the operation  
15 of the border crossing.

16 (4) The trust agreement or resolution shall be subject to the  
17 approval of the state administrative board of the state of  
18 Michigan.

19 Sec. 9. (1) The authority is authorized to establish, revise,  
20 charge, and collect tolls for the use of the border crossing. The  
21 tolls shall be fixed and adjusted so as to provide a fund  
22 sufficient with other revenues to pay the cost of maintaining,  
23 repairing, and operating the border crossing and the principal and  
24 interest on any bonds issued under this act.

25 (2) Revenue collected from the use or disposition of the  
26 border crossing is appropriated exclusively for those purposes. The  
27 tolls shall not be subject to supervision or regulation by any

1 other commission, board, bureau, or agency of the state. The tolls  
2 and all other revenues derived from the border crossing, except  
3 that part necessary to pay the cost of maintenance, repair, and  
4 operation of the border crossing, shall be set aside at regular  
5 intervals as provided in the resolution or trust agreement in a  
6 sinking fund that is pledged to the payment of the principal and  
7 interest of any bonds as they become due and the redemption price  
8 or the purchase price of bonds retired.

9 (3) The tolls and other revenues or other money received by  
10 the authority shall immediately be subject to the lien of the  
11 pledge without any physical delivery or further act, and the lien  
12 of the pledge is valid and binding against all parties having  
13 claims of any kind in tort, contract, or otherwise against the  
14 authority, irrespective of whether the parties have notice of the  
15 lien.

16 (4) The resolution or trust agreement by which a pledge is  
17 created need not be filed or recorded except in the records of the  
18 authority. The use and disposition of money to the credit of the  
19 sinking fund are subject to the resolution authorizing the issuance  
20 of the bonds or the trust agreement. Except as may otherwise be  
21 provided in the resolution or trust agreement, the sinking fund is  
22 a fund for all of the bonds without distinction or priority of one  
23 over another.

24 Sec. 10. All money received under this act, whether as  
25 proceeds from the sale of bonds or as revenues, is considered to be  
26 trust funds to be held and applied as provided in this act. The  
27 resolution authorizing the bonds or the trust agreement securing

1 the bonds shall provide that any officer with whom, or any bank or  
2 trust company with which, the money is deposited shall act as  
3 trustee of the money and hold and apply the money for the purposes  
4 of this act.

5       Sec. 11. A holder of bonds issued under this act and the  
6 trustee under any trust agreement may protect and enforce any  
7 rights granted under law or the trust agreement or resolution and  
8 may enforce and compel the performance of all duties required by  
9 this act or by such trust agreement or resolution to be performed  
10 by the authority, including the fixing, charging, and collecting of  
11 tolls.

12       Sec. 12. The authority is not required to pay any taxes or  
13 assessments upon the border crossing or any property or income  
14 acquired or used by the authority under this act, and any bonds  
15 issued under this act and their transfer and income are free from  
16 taxation within the state.

17       Sec. 13. The authority is authorized to provide for the  
18 issuance of revenue refunding bonds of the authority for the  
19 purpose of refunding any bonds outstanding which have been issued  
20 under the this act, including the payment of any redemption premium  
21 and any interest accrued or to accrue to the date of redemption of  
22 the bonds, and, if considered advisable by the authority, for the  
23 additional purpose of constructing improvements to the border  
24 crossing. The issuance of the bonds, the maturities, and other  
25 details of the bonds, the rights of the holders of the bonds, and  
26 the rights, duties, and obligations of the authority in respect of  
27 the bonds, shall be governed by this act.

1           Sec. 14. (1) Any action taken by the authority under the  
2 provisions of this act may be authorized by resolution at any  
3 regular or special meeting, and each such resolution shall take  
4 effect immediately and need not be published or posted.

5           (2) Any border crossing, when constructed and opened to  
6 traffic, shall be maintained and kept in good condition and repair  
7 by the authority. The border crossing shall be operated by the  
8 force of toll-takers and other operating employees as the authority  
9 may in its discretion employ and shall be policed in a manner as  
10 the authority may determine.

11           (3) All private property damaged or destroyed in carrying out  
12 the powers granted by this act shall be restored or repaired and  
13 placed in its original condition as nearly as practicable or  
14 adequate compensation shall be made out of funds provided under the  
15 authority of this act.

16           (4) Within the first 90 days of each fiscal year of the  
17 authority, the authority shall make an annual report to the  
18 governor and the legislature of its activities for the preceding  
19 fiscal year. The report shall set forth a complete operating and  
20 financial statement covering its operation during the year. The  
21 authority shall cause an audit of its books and accounts to be made  
22 at least once in each year by certified public accountants, and the  
23 cost may be treated as a part of the cost of construction or  
24 operation.

25           (5) A person who fails or refuses to pay the toll as required  
26 by the authority is guilty of a misdemeanor punishable by a fine of  
27 not more than \$1,000.00 or by imprisonment for not more than 90

1 days, or both. The authority shall also have a lien upon the  
2 vehicle driven by the person for the amount of the toll and may  
3 take and retain possession of the vehicle until the amount of the  
4 toll and all charges have been paid.

5 (6) The authority and its authorized agents and employees may  
6 enter upon any lands, waters, and premises in the state for the  
7 purpose of making surveys, soundings, drillings, and examinations  
8 as they consider necessary or convenient for the purpose of this  
9 act, and the entry shall not be a trespass, nor shall an entry for  
10 such purposes be considered an entry under any condemnation  
11 proceedings which may be then pending. The authority shall make  
12 reimbursement for any actual damage resulting to the lands, waters,  
13 and premises as a result of the activities allowed under this  
14 subsection.

15 Sec. 15. The authority is authorized to make surveys and  
16 studies as may be necessary to effect the financing authorized by  
17 this act. The authority may employ consulting engineers, traffic  
18 engineers, legal and financial experts, and other employees and  
19 agents as it considers necessary.