

HOUSE BILL NO. 4026

January 18, 2023, Introduced by Rep. Zorn and referred to the Committee on Tax Policy.

A bill to amend 1978 PA 639, entitled "Hertel-Law-T. Stopczynski port authority act," by amending sections 2, 4, 8, 9, 14, and 22 (MCL 120.102, 120.104, 120.108, 120.109, 120.114, and 120.122), section 14 as amended by 2002 PA 412.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 (a) "Authority" means a port authority created under this act
- 3 and may also include the area within the jurisdiction of an

1 authority.

2 (b) "Constituent unit" means a city or county requesting the
3 incorporation of an authority.

4 (c) "Governing body of the city" means the city council or
5 city commission of a city requesting incorporation of an authority.
6 ~~created under this act.~~

7 (d) "Governing body of the county" means the county board of
8 commissioners of a county participating in an authority. ~~created~~
9 ~~under this act.~~

10 (e) "Port facilities" means ~~those facilities owned by the port~~
11 ~~authority such as: seawall jetties; piers; wharves; docks; boat~~
12 ~~landings; marinas; warehouses; storehouses; elevators; grain bins;~~
13 ~~cold storage plants; terminal icing plants; bunkers; oil tanks;~~
14 ~~ferries; canals; locks; bridges; tunnels; seaways; conveyors;~~
15 ~~modern appliances for the economical handling, storage, and~~
16 ~~transportation of freight and handling of passenger traffic;~~
17 ~~transfer and terminal facilities required for the efficient~~
18 ~~operation and development of ports and harbors; other harbor~~
19 ~~improvements; or improvements, enlargements, remodeling, or~~
20 ~~extensions of any of these buildings or structures.~~ **structures and**
21 **improvements to land located alongside navigable water that are**
22 **used for 1 or more of the following:**

23 (i) Loading and unloading of cargo from ships, ferries, and
24 other floating vessels.

25 (ii) Support of the operation of vessels.

26 (iii) Cargo handling, storage, packing, and transfer or movement
27 to other modes of transportation.

28 (iv) Assembly, processing, refinement, or improvement of goods
29 recently received from, or before entry into, maritime transport.

1 (f) "Project" means the acquisition, purchase, construction,
 2 reconstruction, rehabilitation, remodeling, improvement,
 3 enlargement, repair, condemnation, maintenance, **financing**, or
 4 operation of port facilities. **Project does not include a bridge or**
 5 **tunnel that directly or indirectly crosses an international**
 6 **boundary.**

7 Sec. 4. (1) A city and county, a combination of counties, or a
 8 combination consisting of at least 1 city and 1 county, by joint
 9 resolution of their respective governing bodies, may request the
 10 governor to authorize the incorporation of an authority. The
 11 governor shall consider the recommendations of the **state**
 12 **transportation** department ~~of state highways and transportation and~~
 13 ~~the department of commerce~~ in authorizing the authority. The
 14 initial articles of incorporation ~~shall~~ **must** be approved by the
 15 governor and may, ~~thereafter~~ **after the initial approval**, be amended
 16 by resolution of the authority, subject to approval by the
 17 governor. After approval by the governor, the articles of
 18 incorporation and any amendments to those articles ~~shall be~~ **are**
 19 effective ~~upon~~ **on** filing with the secretary of state.

20 (2) An authority created under this act ~~shall be~~ **is** a body
 21 corporate and politic.

22 (3) The exercise by an authority of the powers conferred by
 23 this act ~~shall be considered and held to be~~ **is** an essential
 24 governmental function and a benefit to, and a legitimate public
 25 purpose of, ~~the~~ **this** state, the authority, and the constituent
 26 units.

27 (4) **This act does not give an authority jurisdiction over real**
 28 **or personal property owned, leased, or used by this state or by an**
 29 **individual or entity under a lease or contract with this state for**

1 use of that property.

2 (5) A project of an authority or financed by an authority must
3 not interfere with the construction, maintenance, or operation of
4 either of the following:

5 (a) State-owned infrastructure.

6 (b) A seawall, jetty, pier, wharf, dock, boat landing, marina,
7 or other improvement used on or connected to the commercially
8 navigable waters that provide water access for the construction,
9 maintenance, or operation of state-owned infrastructure.

10 Sec. 8. ~~An~~ Subject to section 4(4) and (5), an authority may
11 do 1 or more of the following:

12 (a) Adopt, amend, and repeal bylaws for the regulation of its
13 affairs and the conduct of its business.

14 (b) Sue and be sued on the same basis as ~~the~~ **this** state. ~~;~~ and
15 adopt

16 (c) **Adopt** and register with the secretary of state an official
17 seal and alter that seal at its pleasure.

18 (d) ~~(e)~~ Maintain offices at a place or places, either within
19 or without its jurisdiction, as it may determine.

20 (e) ~~(d)~~ Acquire, construct, reconstruct, rehabilitate,
21 improve, maintain, **finance**, lease as lessor or as lessee, repair,
22 or operate port facilities within its territorial jurisdiction,
23 including, **but not limited to**, the dredging of ship channels and
24 turning basins and the filling and grading of land ~~therefor~~.
25 **related to these improvements**. An authority may operate a leased
26 facility, owned by the authority, if the lessee defaults and a new
27 lease is negotiated or competitively bid.

28 (f) ~~(e)~~ Designate the location and character of the port
29 facilities ~~which~~ **that** the authority may hold or own or over which

1 it is authorized to act and regulate all matters related to the
2 location and character of those port facilities.

3 (g) ~~(f)~~—Acquire, hold, and dispose of real and personal
4 property.

5 (h) ~~(g)~~—Make directly, or through the hiring of expert
6 consultants, investigations and surveys of whatever nature,
7 including studies of business conditions, freight rates, port
8 services, physical surveys of the conditions of channels and
9 structures, and the necessity for additional port facilities for
10 the development and improvement of commerce and recreation and for
11 the more expeditious handling of that commerce and recreation, and
12 make studies, surveys, and estimates, as necessary for the
13 execution of its powers under this act.

14 (i) ~~(h)~~—Promulgate all necessary rules to fulfill the purposes
15 of this act.

16 (j) ~~(i)~~—Issue ~~its~~ bonds, notes, or other evidences of
17 indebtedness as provided in this act.

18 (k) ~~(j)~~—Fix, and revise ~~from time to time and~~ **periodically**,
19 charge, and collect rates, fees, rentals, or other charges for the
20 use of a facility owned by the authority.

21 Sec. 9. An authority may **do 1 or more of the following:**

22 (a) Appear ~~in~~**on** its own behalf before ~~boards,~~**any of the**
23 **following:**

24 (i) **Boards**, commissions, departments, or other agencies of the
25 federal government or of any state or international conferences and
26 before committees of the congress of the United States and the
27 state legislature in all matters relating to the design,
28 establishment, construction, extension, operation, improvement,
29 repair, or maintenance of a project operated, ~~and~~ maintained, **or**

1 **financed** by the authority under this act. ~~and appear before any~~

2 **(ii) Any** federal or state agencies in matters relating to
3 transportation rates, port services and charges, demurrage,
4 switching, wharfage, towage, pilotage, differentials,
5 discriminations, labor relations, trade practices, river and harbor
6 improvements, aids to navigation, permits for structures in
7 navigable waters, and all other matters affecting the physical
8 development of, and the business interest of, the authority and
9 those it serves.

10 (b) ~~Make application~~ **Apply** for, receive, and accept from ~~any a~~
11 federal, state, or municipal agency, foundation, public or private
12 agency, or individual, a grant or loan for, or in aid of, the
13 planning, construction, operation, or financing of a ~~port facility;~~
14 **project**, and receive and accept contributions from any source of
15 money, property, labor, or other things of value, to be held, used,
16 and applied for the purposes for which the grant or contribution
17 ~~may be~~ **is** made.

18 (c) Appoint an executive director. ~~who shall be~~ **All of the**
19 **following apply to an executive director appointed under this**
20 **subdivision:**

21 **(i) The executive director is** the chief administrative
22 **executive** officer of the authority. ~~and to whom the~~

23 **(ii) The** authority may delegate any of its administrative
24 powers and authorizations **to the executive director.**

25 **(iii)** During employment, the executive director shall not have a
26 financial interest in port facilities or projects over which the
27 authority has jurisdiction or power or authorization to act.

28 (d) Employ personnel as ~~is~~ necessary and employ the services
29 of private consultants and engineers, legal counsel, accountants,

1 construction and financial experts, and other agents for rendering
2 professional and technical assistance and advice as ~~may be~~
3 necessary. ~~, and whose~~ **The authority shall determine the**
4 compensation **of persons employed by the authority**, including the
5 executive director. ~~, shall be determined by the authority.~~

6 Sec. 14. (1) An authority may provide by resolution for the
7 issuance of revenue bonds of the authority for the purpose of
8 providing funds for paying the cost of port facilities, or for
9 paying the cost of an extension, enlargement, or improvement of a
10 project then under the control of the authority **or financed by the**
11 **authority**. The bonds issued under this section ~~shall~~ **must** mature at
12 a time or times, not exceeding 40 years after their date of
13 issuance, as the authority may provide.

14 (2) Revenue bonds issued under this section are subject to the
15 revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

16 (3) Revenue bonds issued pursuant to this section ~~shall~~ **do** not
17 ~~be considered to~~ constitute a debt of this state, a political
18 subdivision of this state, the authority, or ~~any~~ **a** constituent
19 unit, or a pledge of the faith and credit of this state, ~~or~~ **a**
20 political subdivision of this state, ~~or of the~~ authority, or ~~any~~ **a**
21 constituent unit, but ~~shall be~~ **are** payable solely from the revenues
22 or income to be derived from the projects. The revenue bonds ~~shall~~
23 **must** contain on their face a statement to the effect that the bonds
24 and attached coupons are payable solely from revenues and are not a
25 general obligation of this state, a political subdivision of this
26 state, the authority, or a constituent unit, and neither the faith
27 and credit nor the taxing power of this state, a political
28 subdivision of this state, the authority, or a constituent unit, is
29 pledged to the payment of the principal of or the interest on the

1 bonds.

2 Sec. 22. (1) An authority created under this act ~~shall be~~**is**
3 exempt from and ~~shall is~~ not be required to pay taxes on property,
4 both real and personal, belonging to the authority, ~~which that~~ is
5 used exclusively for a public purpose. However, the exemption ~~shall~~
6 **does** not apply to property belonging to an authority while a
7 private enterprise is **an operator or** a lessee of the property under
8 a written lease **or a concessionaire under a concession agreement,**
9 **notwithstanding the terms of that written lease or concession**
10 **agreement.**

11 (2) The bonds, notes, or other evidences of indebtedness, or
12 their transfer, issued by an authority as authorized in this act,
13 the interest ~~thereon,~~**on those bonds, notes, or other evidences of**
14 **indebtedness,** the income derived, and the profit from a sale, ~~shall~~
15 ~~be~~**are** exempt from taxation, other than inheritance and estate
16 taxes, within this state.

17 (3) ~~(2)~~—This section constitutes a covenant and agreement with
18 the holders of bonds, notes, or other evidences of indebtedness
19 issued by an authority.