

SENATE BILL NO. 667

December 04, 2019, Introduced by Senator HOLLIER and referred to the Committee on Economic and Small Business Development.

A bill to amend 1978 PA 639, entitled "Hertel-Law-T. Stopczynski port authority act," by amending sections 2, 8, 9, and 12 (MCL 120.102, 120.108, 120.109, and 120.112).

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
- 4 authority.

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

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

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

9 (e) "Port facilities" means, ~~these~~ **except as otherwise**
10 **provided in subparagraph (ii), 1 of the following:**

11 **(i) Those** facilities owned by the port authority ~~such as: that~~
12 **include, but are not limited to:** seawall jetties; piers; wharves;
13 docks; boat landings; marinas; warehouses; storehouses; elevators;
14 grain bins; cold storage plants; terminal icing plants; bunkers;
15 oil tanks; ferries; canals; locks; ~~bridges; tunnels;~~ seaways;
16 conveyors; modern appliances for the economical handling, storage,
17 and transportation of freight and handling of passenger traffic;
18 transfer and terminal facilities required for the efficient
19 operation and development of ports and harbors; other harbor
20 improvements; ~~ex-~~improvements, enlargements, remodeling, or
21 extensions of any of these buildings or structures.

22 **(ii) For authorities created before the effective date of the**
23 **amendatory act that added this subparagraph, those facilities**
24 **described in subparagraph (i), whether or not they are owned by the**
25 **port authority and include other real or personal property**
26 **necessary to enhance commercial or recreational maritime**
27 **activities. Port facilities shall not include a bridge or a tunnel,**
28 **directly or indirectly.**

29 (f) "Project" means the acquisition, purchase, construction,

1 reconstruction, rehabilitation, remodeling, improvement,
2 enlargement, repair, ~~condemnation~~, maintenance, or operation of
3 port facilities. **For authorities created before the effective date**
4 **of the amendatory act that added this sentence, project includes**
5 **public infrastructure, and other real and personal property**
6 **necessary to achieve the purpose of this act. Project shall not**
7 **include a bridge or a tunnel, directly or indirectly.**

8 Sec. 8. (1) An authority may:

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

11 (b) Sue and be sued on the same basis as the state; and adopt
12 and register with the secretary of state an official seal and alter
13 that seal at its pleasure.

14 (c) Maintain offices at a place or places, either within or
15 without its jurisdiction as it may determine.

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

23 (e) Designate the location and character of the port
24 facilities which the authority may hold or own or over which it is
25 authorized to act and regulate all matters related to the location
26 and character of those port facilities.

27 (f) Acquire, hold, and dispose of real and personal property.

28 (g) Make directly, or through the hiring of expert
29 consultants, investigations and surveys of whatever nature,

1 including studies of business conditions, freight rates, port
2 services, physical surveys of the conditions of channels and
3 structures, and the necessity for additional port facilities for
4 the development and improvement of commerce and recreation and for
5 the more expeditious handling of that commerce and recreation, and
6 make studies, surveys, and estimates, as necessary for the
7 execution of its powers under this act.

8 (h) Promulgate all necessary rules to fulfill the purposes of
9 this act.

10 (i) Issue its bonds, notes, or other evidences of indebtedness
11 as provided in this act.

12 (j) Fix and revise from time to time and charge and collect
13 rates, fees, rentals, or other charges for the use of a facility
14 owned by the authority.

15 **(k) For authorities created before the effective date of the**
16 **amendatory act that added this subdivision, enter into public-**
17 **private partnerships with other owners or property or port**
18 **facilities within the jurisdiction of the authority.**

19 **(2) Nothing in this act shall limit the property rights of any**
20 **person that owns property or port facilities within the**
21 **jurisdiction of the authority.**

22 **(3) The powers granted under this act are in addition to those**
23 **powers granted by charter or other statute.**

24 Sec. 9. An authority may:

25 (a) Appear in its own behalf before boards, commissions,
26 departments, or other agencies of the federal government or of any
27 state or international conferences and before committees of the
28 congress of the United States and the state legislature in all
29 matters relating to the design, establishment, construction,

1 extension, operation, improvement, repair, or maintenance of a
2 project operated, ~~and maintained,~~ **financed, or supported** by the
3 authority under this act, and appear before any federal or state
4 agencies in matters relating to transportation rates, port services
5 and charges, demurrage, switching, wharfage, towage, pilotage,
6 differentials, discriminations, labor relations, trade practices,
7 river and harbor improvements, aids to navigation, permits for
8 structures in navigable waters, and all other matters affecting the
9 physical development of, and the business interest of, the
10 authority and those it serves.

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

19 (c) Appoint an executive director who shall be the chief
20 ~~administrative~~ **executive** officer of the authority, and to whom the
21 authority may delegate any of its administrative powers and
22 authorizations. During employment the executive director shall not
23 have a financial interest in port facilities or projects over which
24 the authority has jurisdiction or power or authorization to act.

25 (d) Employ personnel as is necessary and employ the services
26 of private consultants and engineers, legal counsel, accountants,
27 construction and financial experts, and other agents for rendering
28 professional and technical assistance and advice as may be
29 necessary, and whose compensation, including the executive

1 director, ~~shall be~~ **is** determined by the authority.

2 Sec. 12. (1) An authority may acquire by purchase or lease,
3 when it considers the purchase or lease expedient, lands,
4 structures, property, rights, rights of way, franchises, easements,
5 and other interests in lands as it considers necessary or
6 convenient for the construction or operation of a project, upon
7 terms and at a price as considered reasonable and agreed upon
8 between the authority and the owner ~~thereof.~~ **of that property.**

9 ~~(2) An authority may acquire by condemnation lands, property~~
10 ~~rights, rights of way, franchises, easements, and other property,~~
11 ~~or parts thereof or rights therein, of a person, partnership,~~
12 ~~association, or corporation considered by the authority to be~~
13 ~~necessary for the construction or efficient operation of a project.~~
14 ~~However, a facility currently operated as a port facility by a~~
15 ~~terminal operator or a facility owned or operated by and for the~~
16 ~~exclusive use of the owner or operator and a facility owned or~~
17 ~~operated by a common carrier or public utility shall be exempt from~~
18 ~~this subsection. The condemnation shall be made in the manner~~
19 ~~provided by Act No. 295 of the Public Acts of 1966, as amended,~~
20 ~~being sections 213.361 to 213.391 of the Michigan Compiled Laws,~~
21 ~~except where that procedure may be inconsistent with this act.~~

22 **(2)** ~~(3)~~ An authority may sell or remove the buildings or other
23 structures upon lands ~~taken~~ **owned or leased** by the authority, and
24 may sell or lease lands or rights or interest in lands or other
25 property ~~taken or purchased~~ **or leased** for the purposes of this act.