

**SUBSTITUTE FOR
SENATE BILL NO. 745**

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
4 authority.

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

7 (c) "Governing body of the city" means the city council or

1 city commission of a city requesting incorporation of an authority
2 created under this act.

3 (d) "Governing body of the county" means the county board of
4 commissioners of a county participating in an authority created
5 under this act.

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

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

21 (ii) Support of the operation of vessels.

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

24 (iv) Assembly, processing, refinement, or improvement of goods
25 recently received from or prior to entry into maritime transport.

26 (f) "Project" means the acquisition, purchase, construction,
27 reconstruction, rehabilitation, remodeling, improvement,
28 enlargement, repair, condemnation, maintenance, **financing**, or
29 operation of port facilities. **Project does not include a bridge or**

1 **tunnel that crosses an international boundary, directly or**
2 **indirectly.**

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

15 (2) An authority created under this act shall be a body
16 corporate and politic.

17 (3) The exercise by an authority of the powers conferred by
18 this act shall be considered and held to be an essential
19 governmental function and a benefit to, and a legitimate public
20 purpose of the state, the authority, and the constituent units.

21 **(4) This act does not give an authority jurisdiction over any**
22 **real or personal property owned, leased, or used by this state or**
23 **by any individual or entity under any lease or contract with this**
24 **state for use of such property.**

25 (5) A project of an authority or financed by an authority must
26 not interfere with the construction, maintenance, or operation of
27 any state-owned infrastructure or any seawall, jetty, pier, wharf,
28 dock, boat landing, marina, or other improvement used on or
29 connected to the commercially navigable waters that provide water

1 access for the construction, maintenance, or operation of any
2 state-owned infrastructure.

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

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

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

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

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

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

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

25 (g) Make directly, or through the hiring of expert
26 consultants, investigations and surveys of whatever nature,
27 including studies of business conditions, freight rates, port
28 services, physical surveys of the conditions of channels and
29 structures, and the necessity for additional port facilities for

1 the development and improvement of commerce and recreation and for
2 the more expeditious handling of that commerce and recreation, and
3 make studies, surveys, and estimates, as necessary for the
4 execution of its powers under this act.

5 (h) Promulgate all necessary rules to fulfill the purposes of
6 this act.

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

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

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

13 (a) Appear in its own behalf before boards, commissions,
14 departments, or other agencies of the federal government or of any
15 state or international conferences and before committees of the
16 congress of the United States and the state legislature in all
17 matters relating to the design, establishment, construction,
18 extension, operation, improvement, repair, or maintenance of a
19 project operated, ~~and maintained,~~ **or financed** by the authority
20 under this act, and appear before any federal or state agencies in
21 matters relating to transportation rates, port services and
22 charges, demurrage, switching, wharfage, towage, pilotage,
23 differentials, discriminations, labor relations, trade practices,
24 river and harbor improvements, aids to navigation, permits for
25 structures in navigable waters, and all other matters affecting the
26 physical development of, and the business interest of, the
27 authority and those it serves.

28 (b) Make application for, receive and accept from any federal,
29 state, or municipal agency, foundation, public or private agency,

1 or individual, a grant or loan for, or in aid of, the planning,
 2 construction, operation, or financing of a ~~port facility;~~ **project;**
 3 and receive and accept contributions from any source of money,
 4 property, labor, or other things of value, to be held, used, and
 5 applied for the purposes for which the grant or contribution may be
 6 made.

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

13 (d) Employ personnel as is necessary and employ the services
 14 of private consultants and engineers, legal counsel, accountants,
 15 construction and financial experts, and other agents for rendering
 16 professional and technical assistance and advice as may be
 17 necessary, and whose compensation, including the executive
 18 director, ~~shall be~~ **is** determined by the authority.

19 Sec. 14. (1) An authority may provide by resolution for the
 20 issuance of revenue bonds of the authority for the purpose of
 21 providing funds for paying the cost of port facilities, or for
 22 paying the cost of an extension, enlargement, or improvement of a
 23 project then under the control of the authority **or financed by the**
 24 **authority**. The bonds issued under this section shall mature at a
 25 time or times, not exceeding 40 years after their date of issuance,
 26 as the authority may provide.

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

29 (3) Revenue bonds issued pursuant to this section shall not be

1 considered to constitute a debt of this state, a political
2 subdivision of this state, the authority, or any constituent unit,
3 or a pledge of the faith and credit of this state or a political
4 subdivision of this state or of the authority or any constituent
5 unit, but shall be payable solely from the revenues or income to be
6 derived from the projects. The revenue bonds shall contain on their
7 face a statement to the effect that the bonds and attached coupons
8 are payable solely from revenues and are not a general obligation
9 of this state, a political subdivision of this state, the
10 authority, or a constituent unit, and neither the faith and credit
11 nor the taxing power of this state, a political subdivision of this
12 state, the authority, or a constituent unit, is pledged to the
13 payment of the principal of or the interest on the bonds.

14 Sec. 22. (1) An authority created under this act shall be
15 exempt from and shall not be required to pay taxes on property,
16 both real and personal, belonging to the authority, which is used
17 exclusively for a public purpose. However, the exemption shall not
18 apply to property belonging to an authority while a private
19 enterprise is **an operator or** a lessee of the property under a
20 written lease **or a concessionaire under a concession agreement**
21 **notwithstanding the terms of that written lease or concession**
22 **agreement.**

23 (2) The bonds, notes, or other evidences of indebtedness, or
24 their transfer, issued by an authority as authorized in this act,
25 the interest ~~thereon,~~ **on those bonds, notes, or other evidences of**
26 **indebtedness**, the income derived, and the profit from a sale, shall
27 be exempt from taxation, other than inheritance and estate taxes,
28 within this state.

29 (3) ~~(2)~~—This section constitutes a covenant and agreement with

- 1 the holders of bonds, notes, or other evidences of indebtedness
- 2 issued by an authority.