

Act No. 243
Public Acts of 2000
Approved by the Governor
June 29, 2000
Filed with the Secretary of State
June 29, 2000
EFFECTIVE DATE: June 29, 2000

**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 2000**

Introduced by Rep. Shackleton

ENROLLED HOUSE BILL No. 5813

AN ACT to amend 1954 PA 99, entitled "An act authorizing the international bridge authority of Michigan, created by Act No. 237 of the Public Acts of 1935, as amended, being sections 254.201 to 254.216, inclusive, of the Compiled Laws of 1948, to construct, maintain, repair and operate a bridge or tunnel project from the Upper Peninsula of Michigan to the province of Ontario, Canada, and providing for the acquisition and operation of the existing ferry system and buses in connection with such project; defining the powers and duties of the authority; granting to the authority power to acquire necessary real and personal property and to exercise the power of condemnation; providing for financing such project by the issuance of revenue bonds of the authority, payable solely from tolls and other revenues; providing that no debt of the state shall be incurred in the exercise of any such powers; providing for the collection of tolls and other revenues to pay such bonds and the interest thereon and the cost of maintenance, repair and operation of such project; exempting from taxes and assessments such project and such bonds and the income therefrom; authorizing the issuance of revenue refunding bonds; prescribing the rights and remedies of the holders of bonds issued under the provisions of this act; making an appropriation; and repealing certain acts and parts of acts," by amending the title and sections 1, 3, 4, 7, and 16 (MCL 254.221, 254.223, 254.224, 254.227, and 254.236), section 3 as amended by 1994 PA 44, and by adding section 3a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

TITLE

An act authorizing the international bridge authority of Michigan to construct, maintain, repair, and operate a bridge or tunnel project from the Upper Peninsula of Michigan to the province of Ontario, Canada, and to provide for the acquisition and operation of the existing ferry system and buses in connection with the project; to prescribe the powers and duties of the authority including, but not limited to, the power to acquire necessary real and personal property and to exercise the power of condemnation; to provide for financing the project by the issuance of revenue bonds of the authority payable solely from tolls and other revenues; to provide that no debt of the state shall be incurred in the exercise of any such powers; to provide for the collection of tolls and other revenues to pay the bonds, the interest on the bonds, and the cost of maintenance, repair, and operation of the project; to exempt from taxes and assessments the project and the bonds and the income from the bonds; to authorize the issuance of revenue refunding bonds; to prescribe the rights and remedies of the holders of bonds issued under this act; to make an appropriation; to provide for the state transportation department to assume the powers and duties of the authority upon retirement of the outstanding bonds including, but not limited to, the power to enter into interlocal agreements; and to repeal acts and parts of acts.

Sec. 1. As used in this act, the following words have the following meanings, unless the context indicates a different meaning or intent:

(a) "Authority" means the international bridge authority of Michigan created by section 2 of 1935 PA 237, MCL 254.202, or, if the authority is abolished, the board, body, or commission succeeding to the principal functions or to whom the powers given by this act to the authority are given by law.

(b) "Project" includes a bridge or tunnel, overpasses, underpasses, entrance plazas, toll houses, administration, storage and other buildings and facilities, and all equipment therefor, and may include buses and terminal facilities, the existing ferry system, and such approaches and approach highways as may be determined by the authority to be necessary to facilitate the flow of traffic or to connect the project with the existing highway systems, together with all property, rights, easements, and interests acquired by the authority for the construction or operation of the project.

(c) "Cost" includes the cost of construction or acquisition, the cost of the acquisition of all land, rights-of-way, property, rights, easements, and interests acquired by the authority for the construction, the cost of demolishing or removing any buildings or structures on land acquired, including the cost of acquiring any lands to which buildings or structures may be moved, the cost of acquiring the existing ferry system or any portion of that ferry system, operating between Sault Ste. Marie, Michigan, and Sault Ste. Marie in the province of Ontario, Canada, the purchase price of any buses operated by the authority, the cost of all machinery and equipment, financing charges, interest before and during construction and, if considered advisable by the authority, for a period not exceeding 1 year after completion of construction, cost of traffic estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing, repairing, or improving the project, administrative expense, and such other expense as may be necessary or incident to the construction, repair, or improvement of the project, the financing of such project, and the placing and maintaining of the project in operation. Any money paid or advanced to the authority with its approval for traffic surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction, repair, or improvement of the project shall be regarded as a part of the cost of the project and shall be reimbursed out of the proceeds of the revenue bonds issued for the project as authorized in this act. Cost includes the cost to operate, maintain, repair, or improve the project.

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

(e) "Owner" includes all individuals, copartnerships, associations, or corporations and also municipalities, political subdivisions, and all public agencies and instrumentalities having any title or interest in any property, rights, easements, and interests authorized to be acquired by this act.

Sec. 3. (1) The authority is hereby authorized and empowered to do the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal and alter the same at pleasure.

(c) Maintain an office at the place or places within the state as it may designate.

(d) Sue and be sued in its own name, plead, and be impleaded.

(e) Determine the location of the project, determine, in its discretion and without reference to any other provisions of this act or any other law, the design standards and the materials of construction, and construct, maintain, repair, and operate the project.

(f) Issue revenue bonds of the authority for any of its corporate purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this act.

(g) Fix and revise from time to time and charge and collect tolls and other charges for the use of the project.

(h) Establish rules and regulations for the use of the project.

(i) Acquire, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act.

(j) Acquire the existing ferry system, or any portion of that system, operating between Sault Ste. Marie, Michigan, and Sault Ste. Marie, in the province of Ontario, Canada, and maintain, repair, and operate this ferry system or portion of this system until the project is opened for traffic.

(k) Acquire, maintain, repair, and operate buses between Sault Ste. Marie, Michigan, and Sault Ste. Marie in the province of Ontario, Canada.

(l) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act.

(m) Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and other employees and agents as may be necessary in its judgment and fix their compensation.

(n) Receive and accept from any federal agency grants for or in aid of the construction, repair, or improvement of the project, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

(o) Enter into contracts and leases to provide for the development and use of any real property owned by the authority in the United States or Canada for customs brokering or for the sale of articles for export and consumption outside the United States or Canada, respectively, to the extent that this use is not restricted by federal or Canadian law. The authority shall obtain proposals before entering into any contracts or leases for the development and use of its real property for the sale of articles for export and consumption outside of the United States. The authority shall advertise for proposals once each week for 2 successive weeks in a newspaper of general circulation in this state. The authority shall open and examine all proposals at a public meeting of the authority. The authority may reject any or all proposals, and shall readvertise, in the event of rejection of all proposals, in the manner required by this section. The revenue from these contracts or leases shall be deposited in the fund created by section 7. This subdivision does not exempt a person from the payment of any motor fuel, sales, or other taxes required to be paid under the laws of this state on articles or fuel sold or brought into this state irrespective of whether the articles or fuel is for export or consumption outside the United States or Canada.

(p) Enter into an interlocal agreement with the owner of the Canadian portion of the project or its authorized agent under 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, to provide for joint operational and policy oversight and for operation, maintenance, repair, and improvement of the project in the United States and Canada by an administrative unit within the state transportation department. The governor shall appoint the Michigan members of a separate joint United States-Canadian body created under the interlocal agreement to provide joint operational and policy oversight of the project. An employee of the state transportation department is not eligible for appointment to this body.

(q) Do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

(2) Nothing in this act or the interlocal agreement shall preclude the joint United States-Canadian body created under the interlocal agreement entered into under subsection (1)(p) from appraising the fair market value of assets, from exploring opportunities to create efficiencies, or from studying proposals that may maximize the value of assets associated with the bridge project and be in the best interest of the people of the State of Michigan.

Sec. 3a. If taxes or assessments are imposed by law in Canada on the Canadian portion of the project to be paid from bridge revenue under an interlocal agreement entered into pursuant to section 3(p), an equal sum may be expended in Michigan from bridge revenue for purposes similar to those of the taxes or assessments, for reasonable appurtenances, or for the maintenance or improvement of access to the bridge. If taxes or assessments are paid directly to a Canadian local unit of government, an equal sum shall be paid directly to a Michigan local unit of government.

Sec. 4. (1) The authority is hereby authorized and empowered to acquire by purchase, whenever it considers such purchase expedient, solely from funds provided under the authority of this act, such lands, structures, property, rights, rights-of-way, franchises, easements, and other interests in lands, including lands lying under water and riparian rights, which are located within or without the state, as it considers necessary or convenient for the construction, repair, improvement, and operation of the project, upon such terms and at such prices as it considers to be reasonable and that can be agreed upon between it and the owner thereof, and to take title thereto in the name of the authority.

(2) Notwithstanding any contrary provision of law, the city of Sault Ste. Marie is authorized and empowered to lease, lend, grant, or convey to the authority at its request upon such terms and conditions as the city considers reasonable and fair and without the necessity for any advertisement, order of court, or other action of formality, other than the regular and formal action of the governing body of the city, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the authority, including public highways and other real property already devoted to public use.

(3) If a reasonable price cannot be agreed upon, or if the owner is legally incapacitated, absent, unknown, or unable to convey valid title, the authority is hereby authorized and empowered to acquire by condemnation or by the exercise of the power of eminent domain any lands, property, rights, rights-of-way, franchises, easements, and other property, including public lands, parks, playgrounds, reservations, highways, or parkways, or parts thereof or rights therein, of any person, copartnership, association, railroad, public service, public utility or other corporation, municipality or political subdivision considered necessary or convenient for the construction, repair, or improvement or the efficient operation of the project or necessary in restoration of public or private property damaged or destroyed. Any such proceedings shall be conducted in accordance with and subject to the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75. Title to any property acquired by the authority shall be taken in the name of the authority.

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

Sec. 7. The authority is hereby authorized to fix, revise, charge, and collect tolls for the use of the project, and to contract with any person, partnership, association, or corporation for the placing of telephone, telegraph, pipelines, and electric light or power lines, or for any other purpose, and to fix the terms, conditions, rents, and rates of charges for such use. The tolls shall be fixed and adjusted so as to provide a fund sufficient with other revenues, if any, to pay the cost of maintaining, repairing, and operating the project and the principal of and the interest on the bonds as they

become due and payable, and to create reserves for these purposes. Revenue collected from the use or disposition of the project is appropriated exclusively for those purposes. The tolls shall not be subject to supervision or regulation by any other commission, board, bureau, or agency of the state. The tolls and all other revenues derived from the project, except that part necessary to pay the cost of maintenance, repair, and operation and to provide reserves as may be provided for in the resolution authorizing the issuance of bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in the resolution or trust agreement in a sinking fund that is hereby pledged to, and charged with, the payment of the principal of and the interest on those bonds as they become due, and the redemption price or the purchase price of bonds retired by call or purchase as provided in the resolution or trust agreement. The pledge is valid and binding from the time when the pledge is made. The tolls and other revenues or other money so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice of the lien. The resolution or trust agreement by which a pledge is created need not be filed or recorded except in the records of the authority. The use and disposition of money to the credit of the sinking fund are subject to the resolution authorizing the issuance of the bonds or the trust agreement. Except as may otherwise be provided in the resolution or trust agreement, the sinking fund is a fund for all the bonds without distinction or priority of one over another.

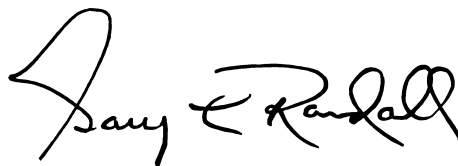
Sec. 16. (1) When all bonds issued under this act in connection with the project and the interest on those bonds is paid or a sufficient amount for the payment of the bonds and the interest on the bonds to their maturity is set aside in trust for the benefit of the bondholders, that portion of the project in Michigan, if then in good condition and repair, shall be conveyed by the authority to the state transportation department and that portion of the project in Canada shall be disposed of as directed by the proper authorities in Canada. Thereupon, the authority shall be dissolved and all funds of the authority not required for the payment of the bonds and the interest thereon shall be paid to the state transportation department and all machinery, equipment, and other property belonging to the authority shall be delivered to the state transportation department which shall assume all of the powers and responsibilities of the authority under this act and shall use that property and funds for the project.

(2) The authority is hereby authorized and directed to make surveys and studies of the project as may be necessary to effect the financing authorized by this act at the earliest practicable time, and for this purpose to employ consulting engineers, traffic engineers, legal and financial experts, and other employees and agents as it considers necessary. To effect the purpose of this act, the state transportation department shall make available to the authority all data in its possession which may be useful to the authority in making such surveys and studies.

Enacting section 1. (1) Section 2 of 1935 PA 237, MCL 254.202, is repealed, effective September 2, 2000.

(2) Section 19 of 1954 PA 99, MCL 254.239, is repealed.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.