

SUBSTITUTE FOR
SENATE BILL NO. 711

(as amended May 30, 2018)

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) <<, and by adding section 16a>>.

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
8 city commission of a city requesting incorporation of an authority
9 created under this act.

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

4 (e) "Port facilities" means, ~~these~~ **EXCEPT AS OTHERWISE**
5 **PROVIDED IN SUBPARAGRAPH (ii), 1 OF THE FOLLOWING:**

6 (i) **THOSE** facilities owned by the port authority ~~such as: THAT~~
7 **INCLUDE, BUT ARE NOT LIMITED TO:** seawall jetties; piers; wharves;
8 docks; boat landings; marinas; warehouses; storehouses; elevators;
9 grain bins; cold storage plants; terminal icing plants; bunkers;
10 oil tanks; ferries; canals; locks; ~~bridges, tunnels, seaways;~~
11 conveyors; modern appliances for the economical handling, storage,
12 and 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.

17 (ii) **FOR AUTHORITIES CREATED BEFORE THE EFFECTIVE DATE OF THE**
18 **AMENDATORY ACT THAT ADDED THIS SUBPARAGRAPH, THOSE FACILITIES**
19 **DESCRIBED IN SUBPARAGRAPH (i), WHETHER OR NOT THEY ARE OWNED BY THE**
20 **PORT AUTHORITY AND INCLUDE OTHER REAL OR PERSONAL PROPERTY**
21 **NECESSARY TO ENHANCE COMMERCIAL OR RECREATIONAL MARITIME**
22 **ACTIVITIES. PORT FACILITIES SHALL NOT INCLUDE A BRIDGE OR A TUNNEL,**
23 **DIRECTLY OR INDIRECTLY.**

24 (f) "Project" means the acquisition, purchase, construction,
25 reconstruction, rehabilitation, remodeling, improvement,
26 enlargement, repair, ~~condemnation,~~ maintenance, or operation of
27 port facilities. **FOR AUTHORITIES CREATED BEFORE THE EFFECTIVE DATE**

1 OF THE AMENDATORY ACT THAT ADDED THIS SENTENCE, PROJECT INCLUDES
2 PUBLIC INFRASTRUCTURE, AND OTHER REAL AND PERSONAL PROPERTY
3 NECESSARY TO ACHIEVE THE PURPOSE OF THIS ACT. PROJECT SHALL NOT
4 INCLUDE A BRIDGE OR A TUNNEL, DIRECTLY OR INDIRECTLY.

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

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

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

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

13 (d) Acquire, construct, reconstruct, rehabilitate, improve,
14 maintain, lease as lessor or as lessee, repair, or operate port
15 facilities within its territorial jurisdiction, including, **BUT NOT**
16 **LIMITED TO**, the dredging of ship channels and turning basins and
17 the filling and grading of land therefor. An authority may operate
18 a leased facility, owned by the authority, if the lessee defaults
19 and a new lease is negotiated 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

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

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

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

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

14 **(K) FOR AUTHORITIES CREATED BEFORE THE EFFECTIVE DATE OF THE**
15 **AMENDATORY ACT THAT ADDED THIS SUBDIVISION, ENTER INTO PUBLIC-**
16 **PRIVATE PARTNERSHIPS WITH OTHER OWNERS OR PROPERTY OR PORT**
17 **FACILITIES WITHIN THE JURISDICTION OF THE AUTHORITY.**

18 **(2) NOTHING IN THIS ACT SHALL LIMIT THE PROPERTY RIGHTS OF ANY**
19 **PERSON THAT OWNS PROPERTY OR PORT FACILITIES WITHIN THE**
20 **JURISDICTION OF THE AUTHORITY.**

21 **(3) THE POWERS GRANTED UNDER THIS ACT ARE IN ADDITION TO THOSE**
22 **POWERS GRANTED BY CHARTER OR OTHER STATUTE.**

23 Sec. 9. An authority may:

24 (a) Appear in its own behalf before boards, commissions,
25 departments, or other agencies of the federal government or of any
26 state or international conferences and before committees of the
27 congress of the United States and the state legislature in all

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

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

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

26 (d) Employ personnel as is necessary and employ the services
27 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 compensation, including the executive
 4 director, ~~shall be~~ **IS** determined by the authority.

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

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

25 (2) ~~(3)~~ An authority may sell or remove the buildings or other
 26 structures upon lands ~~taken~~ **OWNED OR LEASED** by the authority, and
 27 may sell or lease lands or rights or interest in lands or other

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- 1 property ~~taken or purchased~~ **OR LEASED** for the purposes of this act.
 <<SEC. 16A. BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT
 THAT ADDED THIS SECTION, AN AUTHORITY SHALL NOT ISSUE REVENUE BONDS UNDER
 THIS ACT FOR A PROJECT THAT IS NOT OWNED BY AN AUTHORITY BUT IS FINANCED
 BY AN AUTHORITY UNLESS THAT PROJECT IS LOCATED WITHIN 5 MILES OF THE
 COMMERCIALY NAVIGABLE WATERS THAT PROVIDE WATER ACCESS TO 1 OR MORE PORT
 FACILITIES WITHIN THE JURISDICTION OF THAT AUTHORITY.>>