

HOUSE BILL No. 5029

June 29, 2005, Introduced by Reps. Hunter, Kolb, Gillard, Gaffney, Palsrok, Proos, Farrah, Garfield, Gosselin, McConico, Leland, Tobocman, Huizenga, Stahl, Lipsey, Amos, Cheeks and Lemmons, III and referred to the Committee on Natural Resources, Great Lakes, Land Use, and Environment.

A bill to amend 1978 PA 639, entitled "Hertel-Law-T. Stopczynski port authority act," by amending sections 2, 4, 8, 9, 12, 13, 14, 15, 16, 18, 22, 23, and 24 (MCL 120.102, 120.104, 120.108, 120.109, 120.112, 120.113, 120.114, 120.115, 120.116, 120.118, 120.122, 120.123, and 120.124), sections 14 and 18 as amended by 2002 PA 412 and section 23 as amended by 1984 PA 256, and by adding sections 1a, 1b, 7a, 18a, 31, and 32; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SEC. 1A. THE LEGISLATURE FINDS ALL OF THE FOLLOWING:

(A) THAT THERE EXISTS IN THIS STATE CONDITIONS OF PROPERTY VALUE DETERIORATION DETRIMENTAL TO THE STATE ECONOMY AND THE ECONOMIC GROWTH OF THE STATE AND ITS LOCAL UNITS OF GOVERNMENT.

(B) THAT GOVERNMENT PROGRAMS ARE DESIRABLE AND NECESSARY TO ELIMINATE THE CAUSES OF PROPERTY VALUE DETERIORATION AND BENEFIT

1 THE ECONOMIC GROWTH OF THE STATE.

2 (C) THAT IT IS APPROPRIATE TO FINANCE THESE GOVERNMENT
3 PROGRAMS BY MEANS AVAILABLE TO THE STATE AND LOCAL UNITS OF
4 GOVERNMENT IN THE STATE, INCLUDING THE ISSUANCE OF BONDS AND NOTES.

5 (D) THAT HALTING PROPERTY VALUE DETERIORATION AND PROMOTING
6 ECONOMIC GROWTH IN THE STATE ARE ESSENTIAL GOVERNMENTAL FUNCTIONS
7 AND CONSTITUTE ESSENTIAL PUBLIC PURPOSES.

8 (E) THAT ECONOMIC DEVELOPMENT STRENGTHENS THE TAX BASE UPON
9 WHICH LOCAL UNITS OF GOVERNMENT RELY AND THAT GOVERNMENT PROGRAMS
10 TO ELIMINATE PROPERTY VALUE DETERIORATION BENEFIT LOCAL UNITS OF
11 GOVERNMENT AND ARE FOR THE USE OF THE LOCAL UNITS OF GOVERNMENT.

12 (F) THAT THE PROVISIONS OF THIS ACT ARE ENACTED TO PROVIDE A
13 MEANS FOR COUNTIES AND CITIES TO ELIMINATE PROPERTY VALUE
14 DETERIORATION AND TO PROMOTE ECONOMIC GROWTH IN THE COMMUNITIES
15 SERVED BY THOSE COUNTIES AND CITIES.

16 SEC. 1B. THE AUTHORITY SHOULD FOSTER AND ENCOURAGE THE
17 PARTICIPATION OF PRIVATE ENTERPRISE IN THE DEVELOPMENT OF PORT
18 AUTHORITY ECONOMIC DEVELOPMENT FACILITIES TO THE EXTENT IT
19 CONSIDERS PRACTICABLE IN LIMITING THE NECESSITY OF ACQUISITION,
20 CONSTRUCTION, AND OPERATION OF THOSE FACILITIES BY THE AUTHORITY.

21 Sec. 2. As used in this act:

22 (a) "Authority" means a port authority created under this act
23 and may also include the area within the jurisdiction of an
24 authority.

25 (B) "AUTHORIZED PURPOSES" MEANS ACTIVITIES THAT ENHANCE,
26 FOSTER, AID, PROVIDE, OR PROMOTE TRANSPORTATION, ECONOMIC
27 DEVELOPMENT, HOUSING, RECREATION, EDUCATION, GOVERNMENTAL

1 OPERATIONS, CULTURE, OR RESEARCH WITHIN THIS STATE.

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

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

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

10 (F) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, PARTNERSHIP,
11 ASSOCIATION, OR ANY OTHER LEGAL ENTITY.

12 (G) "PORT ECONOMIC DEVELOPMENT FACILITY" MEANS ANY REAL OR
13 PERSONAL PROPERTY, OR BOTH, INCLUDING, BUT NOT LIMITED TO,
14 MACHINERY, EQUIPMENT, PLANTS, FACTORIES, OFFICES, BUILDINGS, AND
15 OTHER STRUCTURES AND FACILITIES THAT ARE RELATED TO, USEFUL FOR, OR
16 IN FURTHERANCE OF 1 OR MORE AUTHORIZED PURPOSES.

17 (H) ~~(e)~~ "Port facilities" means ~~those facilities owned by~~
18 ~~the port authority such as:~~ seawall jetties, ~~;~~ piers, ~~;~~
19 wharves, ~~;~~ docks, ~~;~~ boat landings, ~~;~~ marinas, ~~;~~ warehouses,
20 ~~;~~ storehouses, ~~;~~ elevators, ~~;~~ grain bins, ~~;~~ cold storage
21 plants, ~~;~~ terminal icing plants, ~~;~~ bunkers, ~~;~~ oil tanks, ~~;~~
22 ferries, ~~;~~ SHIPS, canals, ~~;~~ locks, ~~;~~ bridges, ~~;~~ tunnels, ~~;~~
23 seaways, ~~;~~ conveyors, ~~;~~ modern ~~appliances~~ FACILITIES for the
24 economical handling, storage, and transportation of freight and
25 handling of passenger traffic, ~~;~~ transfer and terminal facilities
26 required for the efficient operation and development of ports and
27 harbors, ~~;~~ other harbor improvements, ~~;~~ ~~or~~ improvements,

1 enlargements, remodeling, or extensions of any of these buildings
 2 or structures, **OR OTHER FACILITIES FUNCTIONALLY RELATED TO THESE**
 3 **BUILDINGS OR STRUCTURES. PORT FACILITIES DO NOT INCLUDE**
 4 **INTERNATIONAL BRIDGES OR TUNNELS.**

5 (I) ~~(f)~~ "Project" means the acquisition, purchase,
 6 construction, reconstruction, rehabilitation, **FINANCING,**
 7 remodeling, improvement, enlargement, repair, condemnation,
 8 maintenance, or operation of port facilities **OR PORT ECONOMIC**
 9 **DEVELOPMENT FACILITIES.**

10 Sec. 4. (1) A city and county, a combination of counties or a
 11 combination consisting of at least 1 city and 1 county, by
 12 **RESOLUTION OF THE GOVERNING BODY OR BY** joint resolution of their
 13 respective governing bodies, may request the governor to authorize
 14 the incorporation of an authority. The governor shall consider the
 15 recommendations of the ~~department of state highways and~~ **STATE**
 16 transportation **DEPARTMENT** and the department of ~~commerce in~~ **LABOR**
 17 **AND ECONOMIC GROWTH** authorizing the authority. The initial articles
 18 of incorporation shall be approved by the governor and may
 19 ~~thereafter~~ **THEN** be amended by resolution of the authority, subject
 20 to approval by the governor. After approval by the governor, the
 21 articles of incorporation and any amendments to those articles
 22 shall be effective upon filing with the secretary of state.

23 (2) An authority created under this act shall be a body
 24 corporate and politic. **NOT MORE THAN 1 AUTHORITY SHALL BE CREATED**
 25 **WITHIN THE BOUNDARIES OF A CITY, COUNTY, 2 OR MORE COUNTIES, OR A**
 26 **COMBINATION OF AT LEAST 1 CITY AND 1 COUNTY.**

27 (3) The exercise by an authority of the powers conferred by

1 this act shall be considered and held to be an essential
2 governmental function and a benefit to, and a legitimate public
3 purpose of the state, the authority, and the constituent units.

4 **SEC. 7A. (1) FINANCIAL AND PROPRIETARY INFORMATION, INCLUDING**
5 **TRADE SECRETS, SUBMITTED BY OR ON BEHALF OF AN EMPLOYER TO A PORT**
6 **AUTHORITY OR TO A NONPROFIT CORPORATION ENGAGED BY CONTRACT TO**
7 **PROVIDE ECONOMIC DEVELOPMENT SERVICES FOR A PORT AUTHORITY, IN**
8 **CONNECTION WITH THE RELOCATION, LOCATION, EXPANSION, IMPROVEMENT,**
9 **OR PRESERVATION OF THE BUSINESS OF THAT EMPLOYER IS NOT A PUBLIC**
10 **RECORD SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL**
11 **15.231 TO 15.246. ANY OTHER INFORMATION SUBMITTED BY AN EMPLOYER**
12 **UNDER SUCH CIRCUMSTANCES IS NOT A PUBLIC RECORD SUBJECT TO THE**
13 **FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246,**
14 **UNTIL THAT EMPLOYER COMMITS IN WRITING TO PROCEED WITH THE**
15 **RELOCATION, LOCATION, EXPANSION, IMPROVEMENT, OR PRESERVATION.**

16 **(2) NOTWITHSTANDING THE OPEN MEETINGS ACT, 1976 PA 267, MCL**
17 **15.261 TO 15.275, THE BOARD OF DIRECTORS OF A PORT AUTHORITY AND**
18 **THE BOARD OF TRUSTEES OF A NONPROFIT CORPORATION DESCRIBED IN**
19 **SUBSECTION (1), AND ANY COMMITTEE OR SUBCOMMITTEE OF SUCH ENTITIES,**
20 **WHEN CONSIDERING INFORMATION THAT IS NOT A PUBLIC RECORD UNDER THIS**
21 **SECTION, MAY CLOSE ANY MEETING DURING THE CONSIDERATION OF THAT**
22 **INFORMATION PURSUANT TO A VOTE OF THE MEMBERS PRESENT ON A MOTION**
23 **STATING THAT THE INFORMATION IS TO BE CONSIDERED. NO OTHER MATTERS**
24 **SHALL BE CONSIDERED DURING THE CLOSED SESSION.**

25 **Sec. 8. (1) An authority may DO ANY OF THE FOLLOWING:**

26 **(a) Adopt, amend, and repeal bylaws for the regulation of its**
27 **affairs and the conduct of its business.**

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

4 (c) Maintain offices at a place or places, either within or
5 ~~without~~ **OUTSIDE OF** its jurisdiction as ~~it~~ **THE AUTHORITY** may
6 determine.

7 (d) Acquire **BY GIFT OR PURCHASE, OWN**, construct, reconstruct,
8 rehabilitate, improve, maintain, **FURNISH, EQUIP, SELL, EXCHANGE**,
9 lease as lessor or as lessee, repair, **FINANCE**, or operate port
10 facilities within **OR OUTSIDE OF** its territorial jurisdiction,
11 including the dredging of ship channels and turning basins and the
12 filling and grading of land ~~therefor~~ **FOR THESE PURPOSES**. An
13 authority may operate a leased facility, owned by the authority, if
14 the lessee defaults and a new lease is negotiated or competitively
15 bid.

16 **(E) ACQUIRE BY GIFT OR PURCHASE, OWN, CONSTRUCT, RECONSTRUCT,**
17 **REHABILITATE, IMPROVE, MAINTAIN, FURNISH, EQUIP, SELL, EXCHANGE,**
18 **LEASE AS LESSOR OR AS LESSEE, REPAIR, FINANCE, OR OPERATE PORT**
19 **ECONOMIC DEVELOPMENT FACILITIES WITHIN OR OUTSIDE OF ITS**
20 **TERRITORIAL JURISDICTION.**

21 **(F)** ~~(e)~~ Designate the location and character of the port
22 facilities ~~which~~ **AND PORT ECONOMIC DEVELOPMENT FACILITIES THAT**
23 the authority may hold, **CONTROL**, or own or over which it is
24 authorized to act and regulate all matters related to the location
25 and character of those port facilities.

26 ~~— (f) Acquire, hold, and dispose of real and personal property.~~

27 **(G) DO ANY OF THE FOLLOWING IN CONNECTION WITH A PROJECT IN**

1 REGARD TO INTERESTS IN ANY REAL OR PERSONAL PROPERTY, INCLUDING,
2 BUT NOT LIMITED TO, MACHINERY, EQUIPMENT, PLANTS, FACTORIES,
3 OFFICES, AND OTHER STRUCTURES AND FACILITIES RELATED TO ANY
4 AUTHORIZED PURPOSE, FOR CONSIDERATION AND IN A MANNER AS THE
5 AUTHORITY MAY DETERMINE:

6 (i) LOAN MONEY TO ANY PERSON FOR THE ACQUISITION, CONSTRUCTION,
7 RECONSTRUCTION, REHABILITATION, IMPROVEMENT, MAINTENANCE,
8 FURNISHING, AND EQUIPPING OF THE PROPERTY.

9 (ii) ACQUIRE, CONSTRUCT, RECONSTRUCT, REHABILITATE, IMPROVE,
10 MAINTAIN, REPAIR, FURNISH, OR EQUIP THE PROPERTY.

11 (iii) SELL TO, EXCHANGE WITH, LEASE AS LESSOR OR LESSEE, CONVEY
12 OTHER INTERESTS IN, OR LEASE WITH AN OPTION TO PURCHASE THE SAME OR
13 ANY LESSER INTEREST IN THE PROPERTY TO THE SAME OR ANY OTHER PERSON
14 OR GOVERNMENTAL ENTITY.

15 (iv) GUARANTEE THE OBLIGATIONS OF ANY GOVERNMENTAL ENTITY.

16 (H) ~~(g)~~ Make directly, or through the hiring of expert
17 consultants, investigations and surveys of whatever nature,
18 including studies of business conditions, freight rates, port
19 services, physical surveys of the conditions of channels and
20 structures, and the necessity for additional port facilities for
21 the development and improvement of commerce and recreation and for
22 the more expeditious handling of that commerce and recreation, and
23 make studies, surveys, and estimates, as necessary for the
24 execution of its powers under this act.

25 (I) ~~(h)~~ Promulgate all necessary rules to fulfill the
26 purposes of this act.

27 (J) ~~(i)~~ Issue its bonds, notes, or other evidences of

1 indebtedness as provided in this act.

2 (K) ~~-(j) Fix-~~ ESTABLISH and revise from time to time and
3 charge and collect rates, fees, rentals, or other charges for the
4 use of a PORT FACILITY OR PORT ECONOMIC DEVELOPMENT facility owned
5 OR OPERATED by the authority.

6 (l) MAKE SECURED OR UNSECURED LOANS, UNDERTAKE COMMITMENTS TO
7 MAKE SECURED OR UNSECURED LOANS AND MORTGAGES, SELL LOANS AND
8 MORTGAGES AT PUBLIC OR PRIVATE SALE, REWRITE LOANS AND MORTGAGES,
9 DISCHARGE LOANS AND MORTGAGES, FORECLOSE ON A MORTGAGE, OR COMMENCE
10 AN ACTION TO PROTECT OR ENFORCE A RIGHT, MORTGAGE, LOAN, CONTRACT,
11 OR OTHER AGREEMENT.

12 (M) ENTER INTO LEASES, AS LESSOR OR LESSEE, LEASE PURCHASE
13 AGREEMENTS, INSTALLMENT SALES CONTRACTS, OR LOAN AGREEMENTS WITH
14 ANY PERSON FOR THE USE, SALE, DEVELOPMENT, OR FINANCING OF A
15 PROJECT.

16 (N) MORTGAGE OR CREATE SECURITY INTERESTS IN ALL OR PART OF A
17 PROJECT, A LEASE OR LOAN, OR THE RENTS, REVENUES, OR SUMS TO BE
18 PAID DURING THE TERM OF A LEASE OR LOAN, IN FAVOR OF HOLDERS OF
19 BONDS OR NOTES ISSUED BY THE AUTHORITY OR IN FAVOR OF A TRUSTEE OR
20 CREDIT PROVIDER.

21 (O) POSSESS THE SAME RIGHTS, PRIVILEGES, AND POWERS GRANTED AN
22 AUTHORITY IN THE BROWNFIELD REDEVELOPMENT FINANCING ACT, 1996 PA
23 381, MCL 125.2651 TO 125.2672.

24 (P) POSSESS THE SAME RIGHTS, PRIVILEGES, AND POWERS GRANTED AN
25 AUTHORITY IN THE LOCAL DEVELOPMENT FINANCING ACT, 1986 PA 281, MCL
26 125.2151 TO 125.2174.

27 (Q) ENTER INTO AN INTERLOCAL AGREEMENT UNDER THE URBAN

1 COOPERATION ACT OF 1967, 1967 (EX SESS) PA 7, MCL 124.501 TO
2 124.512, WITH A PUBLIC AGENCY AS DEFINED BY THE URBAN COOPERATION
3 ACT OF 1967, 1967 (EX SESS) PA 7, MCL 124.501 TO 124.512.

4 (2) A PORT AUTHORITY MAY ACCEPT AND HOLD AS CONSIDERATION FOR
5 THE CONVEYANCE OF PROPERTY OR ANY INTEREST THEREIN SUCH PROPERTY OR
6 INTEREST THEREIN AS THE AUTHORITY IN ITS DISCRETION MAY DETERMINE,
7 NOTWITHSTANDING ANY RESTRICTIONS THAT APPLY TO THE INVESTMENT OF
8 FUNDS BY AN AUTHORITY.

9 Sec. 9. An authority may:

10 (a) Appear in its own behalf before boards, commissions,
11 departments, or other agencies of the federal government or of any
12 state or international conferences and before committees of the
13 congress of the United States and the state legislature in all
14 matters relating to the design, establishment, construction,
15 extension, operation, improvement, repair, or maintenance of a
16 project operated and maintained by the authority under this act. —
17 ~~and appear~~

18 (B) **APPEAR** before any federal or state agencies in matters
19 relating to transportation rates, port services and charges,
20 demurrage, switching, wharfage, towage, pilotage, differentials,
21 discriminations, labor relations, trade practices, river and harbor
22 improvements, aids to navigation, permits for structures in
23 navigable waters, and all other matters affecting the physical
24 development of, and the business interest of, the authority and
25 those it serves.

26 (C) ~~(b)~~ Make application for, receive and accept from any
27 federal, state, or municipal agency, foundation, public or private

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

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

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

19 Sec. 12. (1) An authority may acquire by purchase or lease,
20 when it considers the purchase or lease expedient, lands,
21 structures, property, rights, rights of way, franchises, easements,
22 and other interests in lands **OR AIR SPACE RIGHTS** as it considers
23 necessary or convenient for the construction or operation of a
24 project, upon terms and at a price as considered reasonable and
25 agreed upon between the authority and the owner thereof.

26 (2) An authority may acquire by condemnation lands, property
27 rights, rights of way, franchises, easements, and other property,

1 or parts thereof or rights therein, of a person, partnership,
 2 association, or corporation considered by the authority to be
 3 necessary for the construction or efficient operation of a project.
 4 ~~However, a~~ **A** facility currently operated as a port facility by a
 5 terminal operator or a facility owned or operated by ~~and for the~~
 6 ~~exclusive use of the owner or operator and a facility owned or~~
 7 ~~operated by~~ a common carrier or public utility shall be exempt
 8 from this subsection. The condemnation shall be made in the manner
 9 provided ~~by Act No. 295 of the Public Acts of 1966, as amended,~~
 10 ~~being sections 213.361 to 213.391 of the Michigan Compiled Laws~~
 11 **UNDER 1966 PA 295, MCL 213.361 TO 213.391, OR THE UNIFORM**
 12 **CONDEMNATION PROCEDURES ACT, 1980 PA 87, MCL 213.51 TO 213.75,**
 13 except where that procedure may be inconsistent with this act.

14 (3) An authority may sell or remove the buildings or other
 15 structures upon lands taken by the authority, and may sell or lease
 16 lands or rights or interest in lands or other property ~~taken or~~
 17 ~~purchased for the purposes of~~ **COMPRISING A PROJECT UNDER** this act.

18 Sec. 13. (1) An authority and 1 or more constituent units may
 19 enter into a contract or contracts for the acquisition,
 20 improvement, enlargement, or extension of port facilities **OR PORT**
 21 **ECONOMIC DEVELOPMENT FACILITIES** and for the payment of the cost
 22 ~~thereof by~~ **OF** the contracting constituent units, with interest,
 23 over a period of not more than 40 years.

24 (2) Each contracting constituent unit ~~shall~~ **MAY** pledge its
 25 full faith and credit for the payment of its obligations under the
 26 contract. If the constituent unit has taxing power, each year it
 27 shall levy a tax upon all real and personal property within the

1 constituent unit, which may be imposed without limitation as to
2 rate or amount, to the extent necessary for the prompt payment of
3 that part of the contract obligations as shall fall due before the
4 following year's tax collection. The tax shall be in addition to
5 any tax which the contracting constituent unit may otherwise be
6 authorized to levy and may be imposed without limitation as to rate
7 or amount, but shall not be in excess of the rate or amount
8 necessary to pay the contract obligation. If any contracting
9 constituent unit at the time of its annual tax levy has on hand in
10 cash any amount pledged to the payment of the current obligations
11 for which the tax levy is to be made, then the annual tax levy may
12 be reduced by that amount. ~~For the purpose of obtaining the~~
13 ~~credit, funds~~

14 (3) **FUNDS** may be raised by a contracting constituent unit in 1
15 or more of the following methods:

16 (a) By service charge to users of the facilities owned,
17 **IMPROVED, CONTROLLED, OPERATED, OR MAINTAINED** by the port
18 authority.

19 (b) By setting aside state collected funds disbursed to the
20 contracting constituent unit.

21 (c) By special assessment upon lands benefited.

22 (d) By setting aside any other available money.

23 (4) ~~(3)~~ A contracting constituent unit may agree to raise
24 all or any part of its contract obligation by 1 or more of the
25 methods enumerated in subsection ~~(2) which~~ (3) **THAT** may be
26 available. The various powers granted in this act to a constituent
27 unit shall be exercised by its governing body.

1 (5) ~~(4)~~ If a constituent unit, other than a county,
 2 operating under this act elects to raise money to pay all or a
 3 portion of its share of the cost of a project by assessing the
 4 costs upon benefited lands, its governing body shall ~~so~~ determine
 5 by resolution and ~~fix~~ **ESTABLISH** the district. ~~therefor.~~ The
 6 governing body shall then cause a special assessment roll to be
 7 prepared. ~~and thereafter the proceedings in respect to~~ **THE**
 8 **PROCEDURES REGARDING** the special assessment roll and the making and
 9 collection of the special assessments ~~on the roll,~~ shall be in
 10 accordance with the provisions of the statute or charter governing
 11 special assessments in the constituent unit. ~~, except that the~~
 12 **THE** total assessment may be divided into any number of installments
 13 not exceeding 30, and any person assessed shall have the right at
 14 the hearing upon the special assessment roll to object to the
 15 special assessment district previously established.

16 Sec. 14. (1) ~~An authority may provide by resolution for the~~
 17 ~~issuance of revenue bonds of the authority for the purpose of~~
 18 ~~providing funds for paying the cost of port facilities, or for~~
 19 ~~paying the cost of an extension, enlargement, or improvement of a~~
 20 ~~project then under the control of the authority. The bonds issued~~
 21 ~~under this section shall mature at a time or times, not exceeding~~
 22 ~~40 years after their date of issuance, as the authority may~~
 23 ~~provide.~~ **FOR THE PURPOSE OF ACQUIRING, PURCHASING, CONSTRUCTING,**
 24 **IMPROVING, ENLARGING, FURNISHING, EQUIPPING, REEQUIPPING, OR**
 25 **REPAIRING PORT FACILITIES OR A PORT ECONOMIC DEVELOPMENT FACILITY,**
 26 **THE AUTHORITY MAY ISSUE SELF-LIQUIDATING BONDS OF THE AUTHORITY**
 27 **UNDER THE REVENUE BOND ACT OF 1933, 1933 PA 94, MCL 141.101 TO**

1 141.140.

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

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

19 Sec. 15. ~~An authority shall determine the form of the bonds~~
20 ~~of each series issued pursuant to section 14, including any~~
21 ~~interest coupons to be attached thereto, the date of the bonds, the~~
22 ~~denomination of the bonds, and the place of payment of principal~~
23 ~~and interest, which may be at any bank or trust company within or~~
24 ~~without the state. The bonds of each series may be made redeemable~~
25 ~~before their maturity or maturities at the option of the authority,~~
26 ~~at a price and under the terms and conditions as may be fixed by~~
27 ~~the authority before issuance of the bonds. If an officer whose~~

1 ~~signature or a facsimile of whose signature appears on any bonds or~~
2 ~~coupons ceases to be an officer before delivery of the bonds, the~~
3 ~~signature or facsimile shall nevertheless be valid and sufficient~~
4 ~~for all purposes the same as if the officer had remained in office~~
5 ~~until the delivery. The bonds may be issued in coupon or in~~
6 ~~registered form, or both, as the authority may determine, and~~
7 ~~provision may be made for the registration of any coupon bonds as~~
8 ~~to principal alone and also as to both principal and interest, for~~
9 ~~the reconversion into coupon bonds of any bonds registered as to~~
10 ~~both principal and interest, and for the interchange of coupon and~~
11 ~~registered bonds.~~

12 (1) AN AUTHORITY MAY BORROW MONEY AND ISSUE ITS REVENUE BONDS
13 OR NOTES TO FINANCE OR REFINANCE PART OR ALL OF A PROJECT AND THE
14 COSTS NECESSARY OR INCIDENTAL TO THE BORROWING OF MONEY AND ISSUING
15 OF BONDS OR NOTES FOR THAT PURPOSE, AND MAY SECURE THOSE BONDS AND
16 NOTES BY MORTGAGE, ASSIGNMENT, OR PLEDGE OF ANY OF THE AUTHORITY'S
17 MONEY, REVENUES, INCOME, AND PROPERTIES. BONDS AND NOTES MAY BE
18 ISSUED UNDER THIS SECTION REGARDLESS OF WHETHER THE AUTHORITY OWNS
19 OR PROPOSES TO OWN THE PROJECT.

20 (2) BONDS AND NOTES ISSUED UNDER THIS SECTION ARE NOT SUBJECT
21 TO THE REVENUE BOND ACT OF 1933, 1933 PA 94, MCL 141.101 TO 141.140
22 OR THE REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO
23 141.2821.

24 Sec. 16. ~~Revenue bonds issued pursuant to this act shall be~~
25 ~~secured by a trust agreement by and between the authority and a~~
26 ~~corporate trustee, which may be any trust company or bank having~~
27 ~~the powers of a trust company, within or without the state. The~~

1 ~~trust agreement may pledge or assign the rentals and other revenues~~
2 ~~of the authority, but shall not convey or mortgage part or all of a~~
3 ~~project. The trust agreement shall contain provisions for~~
4 ~~protecting and enforcing the rights and remedies of the bondholders~~
5 ~~as may be reasonable and proper and not in violation of law,~~
6 ~~including covenants setting forth the duties of the authority in~~
7 ~~relation to the acquisition or construction of a project and the~~
8 ~~extension, enlargement, improvement, maintenance, operation,~~
9 ~~repair, and insurance of a project and the custody, safeguarding,~~
10 ~~and application of all money and may contain provisions for the~~
11 ~~employment of consulting engineers in connection with the~~
12 ~~construction and operation of a project. The trust agreement shall~~
13 ~~set forth the rights and remedies of the bondholders and of the~~
14 ~~trustee and may restrict the individual right of action by the~~
15 ~~bondholders and may contain any other provisions the authority may~~
16 ~~consider reasonable and proper for the security of the bondholders.~~

17 **(1) AN AUTHORITY MAY BORROW MONEY AND ISSUE MUNICIPAL**
18 **SECURITIES UNDER THE REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL**
19 **141.2101 TO 141.2821.**

20 **(2) AN AUTHORITY MAY BORROW MONEY AND ISSUE SHORT-TERM**
21 **MUNICIPAL SECURITIES MATURING NOT MORE THAN 1 YEAR FROM THE DATE OF**
22 **ISSUE IN ANTICIPATION OF THE COLLECTION OF REVENUES TO WHICH IT**
23 **WILL BE ENTITLED TO RECEIVE WITHIN 1 YEAR FROM THE DATE OF THE**
24 **SHORT-TERM MUNICIPAL SECURITIES' ISSUANCE. THE AMOUNT OF THE SHORT-**
25 **TERM MUNICIPAL SECURITIES ISSUED UNDER THIS SECTION SHALL NOT**
26 **EXCEED 100% OF THE REVENUES COLLECTED IN THE PRECEDING FISCAL YEAR**
27 **NOT PLEDGED FOR THE PAYMENT OF A SECURITY OTHER THAN A SHORT-TERM**

1 MUNICIPAL SECURITY ISSUED UNDER THIS SECTION AS CONCLUSIVELY
2 CERTIFIED BY THE AUTHORITY. THE RESOLUTION SHALL PROVIDE FOR THE
3 PLEDGING OF ALL OR A PORTION OF THE REVENUES OF THE AUTHORITY NOT
4 PREVIOUSLY PLEDGED FOR THE PAYMENT OF A SECURITY. THE RESOLUTION
5 MAY ALSO PROVIDE FOR THE PLEDGING OF OTHER ASSETS OF THE AUTHORITY
6 AS ADDITIONAL SECURITY FOR THE PAYMENT OF THE SHORT-TERM MUNICIPAL
7 SECURITY. THE RESOLUTION ALSO SHALL PROVIDE THAT FROM THE RECEIPTS
8 OF THE REVENUES IN ANTICIPATION OF WHICH THE AUTHORITY ISSUED THE
9 SHORT-TERM MUNICIPAL SECURITY, THERE SHALL BE SET ASIDE IN A
10 SPECIAL FUND TO BE USED FOR THE PAYMENT OF PRINCIPAL AND INTEREST
11 ON THE SHORT-TERM MUNICIPAL SECURITY A PORTION OF EACH DOLLAR
12 RECEIVED THAT IS NOT LESS THAN 125% OF THE PERCENTAGE THAT THE
13 PRINCIPAL AMOUNT OF THE SHORT-TERM MUNICIPAL SECURITY BEARS TO THE
14 AMOUNT CERTIFIED AS THE REVENUES ESTIMATED TO BE COLLECTED, UNTIL
15 THE AMOUNT SET ASIDE IS SUFFICIENT FOR THE PAYMENT OF PRINCIPAL AND
16 INTEREST ON THE SHORT-TERM MUNICIPAL SECURITY. THE AMOUNT SET ASIDE
17 SHALL BE USED ONLY FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST ON
18 THE SHORT-TERM MUNICIPAL SECURITY UNTIL THE SHORT-TERM MUNICIPAL
19 SECURITY IS PAID AS TO BOTH PRINCIPAL AND INTEREST.

20 Sec. 18. (1) In addition to the bonds authorized in ~~section~~
21 **SECTIONS 14, 15, AND 16**, bonds may be issued for ~~the purpose of~~
22 ~~acquiring port facilities~~ **AUTHORIZED PURPOSES**, as follows:

23 (a) By the issuance of bonds in anticipation of payments to
24 become due under contracts by which 1 or more constituent units
25 agree to pay to an authority operating under this act certain sums
26 toward the cost of the acquisition, improvement, enlargement, or
27 extension of a project that may be made under this act. Contracts

1 are not subject to the revised municipal finance act, 2001 PA 34,
2 MCL 141.2101 to 141.2821.

3 (b) By money advanced by an authority operating under this act
4 under agreements with a constituent unit or other municipality for
5 the repayment of the money.

6 (c) By money advanced, from time to time, before or during
7 construction of a project, by a public corporation, for which an
8 authority operating under this act shall reimburse the corporation
9 with interest not to exceed ~~8% per annum~~ **THE RATE PROVIDED IN THE**
10 **REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO**
11 **141.2821**, or without interest as may be agreed, when funds are
12 available for reimbursement. The obligation of an authority to make
13 the reimbursement may be evidenced by a contract or note, which
14 contract or note may be made payable out of the payments to be made
15 by constituent units under contracts made ~~pursuant to~~ **UNDER**
16 subdivision (b), or out of the proceeds of bonds issued pursuant to
17 this act by the county or out of any other available funds.

18 (2) Bonds issued under this section shall be authorized by a
19 resolution adopted by the authority. The bonds shall be issued in
20 the name of the authority and shall be executed by the chairperson
21 and secretary-treasurer of the authority, who shall also cause
22 their facsimile signatures to be affixed to the interest coupons to
23 be attached to the bonds. The authority shall adopt a seal that
24 shall be affixed to the bonds. Bonds issued under this section
25 shall be negotiable instruments and shall mature not more than 40
26 years after the date of issuance. The bonds and coupons shall be
27 made payable in lawful money of the United States and shall be

1 exempt from all taxation whatsoever by this state or by any taxing
2 authority within this state.

3 (3) Bonds or notes issued under this section are subject to
4 the revised municipal finance act, 2001 PA 34, MCL 141.2101 to
5 141.2821.

6 **SEC. 18A. A PLEDGE MADE BY AN AUTHORITY SHALL BE VALID AND**
7 **BINDING FROM THE TIME THE PLEDGE IS MADE. THE MONEY OR PROPERTY**
8 **PLEGGED AND RECEIVED BY THE AUTHORITY IMMEDIATELY SHALL BE SUBJECT**
9 **TO THE LIEN OF THE PLEDGE WITHOUT A PHYSICAL DELIVERY, FILING, OR**
10 **FURTHER ACT. THE LIEN OF A PLEDGE SHALL BE VALID AND BINDING AS**
11 **AGAINST PARTIES HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT, OR**
12 **OTHERWISE, AGAINST THE AUTHORITY, IRRESPECTIVE OF WHETHER THE**
13 **PARTIES HAVE NOTICE. NEITHER THE RESOLUTION, THE TRUST AGREEMENT,**
14 **NOR ANY OTHER INSTRUMENT BY WHICH A PLEDGE IS CREATED NEED BE FILED**
15 **OR RECORDED.**

16 Sec. 22. (1) An authority created under this act ~~shall be~~ **IS**
17 exempt from and shall not be required to pay taxes on property,
18 both real and personal, belonging to the authority, which is used
19 exclusively for a public purpose. ~~However, the~~ **THE** exemption
20 ~~shall~~ **DOES** not apply to property belonging to an authority while a
21 private enterprise is a lessee of the property under a written
22 lease. The bonds, notes, or other evidences of indebtedness, or
23 their transfer, issued by an authority as authorized in this act,
24 the interest ~~thereon~~ **ON**, the income derived, and the profit from
25 a sale, ~~shall be~~ **ARE** exempt from taxation, other than inheritance
26 and estate taxes, within this state.

27 (2) This section constitutes a covenant and agreement with the

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

3 (3) INSTRUMENTS OF CONVEYANCE TO OR FROM AN AUTHORITY ARE
4 EXEMPT FROM ALL FEES AND TAXATION IN THIS STATE.

5 Sec. 23. (1) An authority ~~created on or after May 1, 1984~~
6 shall within 2 years after its creation prepare ~~or cause to be~~
7 ~~prepared~~ a plan for the future development, construction, and
8 improvement of the port and its facilities, including the maps,
9 profiles, and other data and descriptions necessary to set forth
10 the location and character of the work to be undertaken by the
11 authority. ~~An authority in existence before May 1, 1984 shall~~
12 ~~prepare or cause to be prepared the plan provided for in this~~
13 ~~subsection not later than September 30, 1985. The authority shall~~
14 ~~notify the legislature on April 15, 1985, as to the progress of the~~
15 ~~plan.~~

16 (2) The authority shall ~~cause~~ **PROVIDE** notice by publication
17 to be given upon the completion of the plan in a daily newspaper of
18 general circulation in the area under the jurisdiction of the
19 authority. The notice shall fix the time and place for hearing on
20 the plan, which shall be not less than 30 nor more than 60 days
21 after publication of the notice.

22 (3) Any interested person may file written comments to the
23 plan, if those comments are filed with the secretary-treasurer of
24 the authority not less than 5 days before the date fixed for the
25 hearing.

26 (4) After the hearing, the authority may adopt the plan, with
27 any modifications or amendments, as the official plan of the

1 authority. The authority, after adoption of the plan, may modify,
 2 amend, or extend the plan after notice and hearing in the **SAME**
 3 manner ~~prescribed in this subsection~~ **AS PROVIDED UNDER THIS**
 4 **SECTION.**

5 ~~—— (2) The plan and any modification, amendment, or extension,~~
 6 ~~when adopted by the authority after notice and hearing, shall be~~
 7 ~~conclusive except that plans for specific projects, to be~~
 8 ~~undertaken in execution of the official plan, shall not be adopted~~
 9 ~~by the authority without prior individual approval by the governing~~
 10 ~~bodies of its constituent units, the state transportation~~
 11 ~~department, and the department of commerce.~~

12 Sec. 24. (1) The authority shall submit in writing a detailed
 13 estimate of the budget required for the business and conduct of an
 14 authority's affairs, initially, for a 2-year period, and annually
 15 thereafter to the governing bodies of its constituent units. ~~—, the~~
 16 ~~department of commerce, and the department of state highways and~~
 17 ~~transportation for approval.~~ The state shall provide 50% of the
 18 operating budget of the authority, to be included in the
 19 ~~department of state highways and~~ **STATE DEPARTMENT OF**
 20 transportation budget which shall be subject to legislative
 21 approval. Fifty percent of the operating budget of an authority in
 22 which not more than 1 county and not more than 1 city participate
 23 shall be funded equally by the participating county and city.

24 (2) A city or county creating or participating in an authority
 25 may appropriate for the use of the authority, and include in its
 26 levy for general fund purposes, an amount considered proper.
 27 ~~However, the~~ **THE** total amount permitted by law to be levied by a

1 city or county for general fund purposes shall not be considered
2 increased by this section.

3 (3) PROJECT COSTS OF A SPECIFIC PROJECT, INCLUDING DEVELOPMENT
4 COSTS OR COSTS OF AN UNDERTAKING OF AN AUTHORITY, SHALL BE PAYABLE
5 FROM ANY LEGALLY AVAILABLE SOURCE.

6 (4) ~~(3)~~ As used in this section, "operating budget" means
7 solely operation and maintenance expenses of an authority not
8 included in the cost of a specific project, and interest on notes,
9 but excludes amounts for debt service on bonds and amounts for
10 acquisition, construction, enlargement, improvement, or extension
11 of port facilities.

12 SEC. 31. (1) AN AUTHORITY MAY ENTER INTO AN INTEREST RATE
13 EXCHANGE OR SWAP, HEDGE, OR SIMILAR AGREEMENT OR AGREEMENTS IN
14 CONNECTION WITH THE ISSUANCE OR PROPOSED ISSUANCE OF OBLIGATIONS OR
15 OTHER EVIDENCES OF INDEBTEDNESS OR IN CONNECTION WITH ITS THEN
16 OUTSTANDING OBLIGATIONS OR OTHER EVIDENCES OF INDEBTEDNESS.

17 (2) IN CONNECTION WITH ENTERING INTO AN INTEREST RATE EXCHANGE
18 OR SWAP, HEDGE, OR SIMILAR AGREEMENT, THE AUTHORITY MAY CREATE A
19 RESERVE FUND FOR THE MAKING OF PAYMENTS.

20 (3) AN AGREEMENT ENTERED INTO UNDER THIS SECTION SHALL COMPLY
21 WITH ALL OF THE FOLLOWING:

22 (A) THE AGREEMENT IS NOT A DEBT OF THE AUTHORITY ENTERING INTO
23 THE AGREEMENT FOR ANY STATUTORY OR CHARTER DEBT LIMITATION PURPOSE.

24 (B) THE AGREEMENT IS PAYABLE FROM GENERAL FUNDS OF THE
25 AUTHORITY OR, SUBJECT TO ANY EXISTING CONTRACTS, FROM ANY AVAILABLE
26 MONEY OR REVENUE SOURCES, INCLUDING REVENUES THAT SHALL BE
27 SPECIFIED BY THE AGREEMENT, SECURING THE OBLIGATION OR EVIDENCE OF

1 INDEBTEDNESS IN CONNECTION WITH THE AGREEMENT.

2 SEC. 32. (1) WITH THE APPROVAL OF THE STATE TREASURER, AN
3 AUTHORITY MAY OBTAIN A LINE OF CREDIT TO SECURE FUNDS FOR
4 OPERATIONS OR TO PAY PREVIOUS LOANS OBTAINED FOR OPERATIONS UNDER
5 THIS OR ANY OTHER STATUTE. THE AUTHORITY SHALL PLEDGE NOT MORE THAN
6 100% OF THE REVENUES COLLECTED IN THE PRECEDING FISCAL YEAR THAT
7 ARE NOT OTHERWISE ENCUMBERED OR PREVIOUSLY PLEDGED FOR THE PAYMENT
8 OF A SECURITY.

9 (2) TO OBTAIN APPROVAL FOR OBTAINING A LINE OF CREDIT UNDER
10 THIS SECTION, AN AUTHORITY SHALL APPLY TO THE STATE TREASURER IN
11 THE FORM AND MANNER PRESCRIBED BY THE STATE TREASURER AND SHALL
12 PROVIDE INFORMATION AS REQUESTED BY THE STATE TREASURER FOR
13 EVALUATING THE APPLICATION. THE STATE TREASURER SHALL APPROVE OR
14 DISAPPROVE AN APPLICATION AND NOTIFY THE AUTHORITY WITHIN 20
15 BUSINESS DAYS AFTER RECEIVING A PROPER APPLICATION. IF THE STATE
16 TREASURER DISAPPROVES AN APPLICATION, THE STATE TREASURER SHALL
17 INCLUDE THE REASONS FOR DISAPPROVAL IN THE NOTIFICATION TO THE
18 AUTHORITY.

19 Enacting section 1. Section 14a of the Hertel-Law-T.
20 Stopczynski port authority act, 1978 PA 639, MCL 120.114a, is
21 repealed.

22 Enacting section 2. This amendatory act does not take effect
23 unless Senate Bill No.____ or House Bill No. 5028(request no.
24 02418'05*) of the 93rd Legislature is enacted into law.