

HOUSE BILL No. 4867

June 2, 2005, Introduced by Reps. Tobocman, Kathleen Law, Espinoza, Plakas, Meisner, McDowell, Hopgood, Accavitti, Clemente, Farrah, Donigan, Sheltroun, Spade, Bennett, Polidori, Dillon, Leland and Waters and referred to the Committee on Commerce.

A bill to create the Michigan border development and protection authority; to prescribe the powers and duties of the authority; to provide for certain regulations at border crossings; and to provide for certain fees.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan border development and protection authority act".

3 Sec. 2. As used in this act:

4 (a) "Authority" means the border development and protection
5 authority created under section 3.

6 (b) "Bond" means any bonds, notes, or other obligations.

7 (c) "Bondholder" means a person who is the owner of a bond,
8 regardless of whether the bond is registered.

1 (d) "Mortgage" means a mortgage or a mortgage and deed of
2 trust or the pledge and hypothecation of any assets as collateral
3 security.

4 (e) "Port of entry" means any international port of entry in
5 Michigan at which customs services are provided by the United
6 States customs service.

7 (f) "Project" means any land or building or any other
8 improvements acquired as a part of a port of entry or associated
9 with a port of entry or to aid commerce, and all real and personal
10 property considered necessary, whether or not now in existence,
11 that is suitable for use by 1 or more of the following:

12 (i) A port of entry, a foreign trade zone, and other facilities
13 to be used by any agency or entity of the United States government
14 or by any other foreign international state or local public agency
15 or entity at the port of entry or foreign trade zone.

16 (ii) An industry for the manufacturing, processing, or
17 assembling of any agricultural, mining, or manufactured product.

18 (iii) A railroad switching yard, railroad station, bus terminal,
19 airport, or other passenger, commuter, or mass transportation
20 system or freight transportation system.

21 (iv) A commercial business or other enterprise engaged in
22 storing, warehousing, distributing, or selling products of
23 manufacturing, agriculture, mining, or related industries, not
24 including facilities designed for the distribution to the public of
25 electricity or gas.

26 (v) An enterprise in which all or part of the activities of
27 the enterprise involve supplying services to the general public or

1 to governmental agencies or to a specific industry or customer.

2 (vi) Any industrial, commercial, agricultural, professional, or
3 other business enterprise seeking to occupy office space.

4 (vii) Infrastructure development involving acquiring,
5 repairing, improving, or maintaining storm sewers and other
6 drainage improvements, sanitary sewers, sewage treatment, or water
7 utilities, including acquiring rights-of-way or water rights.

8 (viii) Infrastructure development involving reconstructing,
9 resurfacing, maintaining, repairing, or improving existing alleys,
10 streets, roads, or bridges or laying off, opening, constructing, or
11 acquiring new alleys, streets, roads, or bridges, including
12 acquiring rights-of-way.

13 (ix) Any industry that involves any water distribution or
14 irrigation system, including pumps, distribution lines,
15 transmission lines, fences, dams, and similar facilities and
16 equipment, including acquiring rights-of-way.

17 (x) Fire protection services or equipment or police protection
18 services or equipment.

19 (g) "Property" means land, improvements to the land, buildings
20 and improvements to the buildings, machinery and equipment of any
21 kind necessary to the project, operating capital, and any other
22 personal properties considered necessary in connection with the
23 project.

24 Sec. 3. (1) The Michigan border development and protection
25 authority is created within the state transportation department.

26 (2) The authority shall be made up of the following members:

27 (a) The president and CEO of the Michigan economic development

1 corporation.

2 (b) The director of the state transportation department.

3 (c) The director of the department of environmental quality.

4 (d) The director of the department of state police.

5 (e) The director of the department of labor and economic
6 growth.

7 (f) Two individuals who are residents of the state appointed
8 by the senate majority leader.

9 (g) Two individuals who are residents of the state appointed
10 by the speaker of the house of representatives.

11 (h) The following individuals appointed by the governor:

12 (i) One individual representing commerce.

13 (ii) One individual representing transportation.

14 (iii) One individual representing border operators.

15 (iv) Three individuals who live within 3 miles of an
16 international border crossing but not from the same area of the
17 state.

18 Sec. 4. (1) The authority shall have and exercise all of the
19 following powers and duties:

20 (a) Advise the governor and appropriate state agencies on
21 methods, proposals, programs, and initiatives involving the
22 Michigan-Canada border area that may further stimulate the border
23 economy and provide additional employment opportunities for
24 Michigan.

25 (b) Create avenues of communication between Michigan and
26 Ontario and the federal government of Canada concerning economic
27 development, trade and commerce, transportation, and industrial

1 affairs in border communities.

2 (c) Perform, or cause to be performed, environmental,
3 transportation, communication, land use, and other technical
4 studies necessary or advisable for projects or programs or to
5 secure port-of-entry approval by the United States and the Canadian
6 governments and other appropriate governmental agencies.

7 (d) Promote legislation that will further the goals of the
8 authority and development of the border region.

9 (e) Perform, or cause to be performed, traffic studies of
10 border communities and ensure border-related traffic is managed in
11 a way that minimizes impacts to the adjacent community.

12 (f) Study, promote, or cause to be implemented economic
13 development projects in border crossing communities.

14 (g) Advise the governor and appropriate state agencies
15 regarding any new port of entry into Michigan constructed or
16 financed by a political subdivision or private entity. An entity
17 proposing a new port of entry shall submit to the authority a
18 report that details the feasibility, location, economic effect, and
19 environmental impact of the proposed port of entry and any other
20 information the authority may require. A new port of entry shall
21 not be constructed without the approval of the authority.

22 (h) Promulgate rules under the administrative procedures act
23 of 1969, 1969 PA 306, MCL 24.201 to 24.328, necessary to implement
24 and administer this act.

25 (i) Initiate, develop, acquire, own, construct, and maintain
26 border development projects.

27 (j) Perform environmental impact studies.

1 (k) Enforce all applicable state and federal hazardous waste
2 transport regulations related to border crossings, regardless if
3 private or public, through the Michigan state police or the
4 appropriate agency.

5 (l) Ensure appropriate signage on all state highways directing
6 vehicles with hazardous waste to appropriate crossings.

7 (m) Require local governments' building inspection authorities
8 and the state fire marshal to perform as otherwise provided by law
9 annual inspections of border crossings to ensure structural safety.

10 (n) Regulate the tolls levied at border crossings.

11 (2) In determining whether to approve construction of the new
12 border crossing under subsection (1)(g), the authority shall
13 consider all of the following:

14 (a) The financial resources available to the political
15 subdivision or private entity for construction of the border
16 crossing.

17 (b) Whether the revenue to be generated by the border crossing
18 is sufficient to finance the planning, design, construction,
19 operation, and maintenance of the bridge.

20 (c) Whether the construction of the border crossing is
21 consistent with the transportation plan adopted by the state and,
22 if appropriate, by the regional planning organization with
23 jurisdiction over the border crossing.

24 (d) The potential effect of the border crossing on any of the
25 following:

26 (i) The economy of the region in which the border crossing is
27 to be located.

1 (ii) The environment of the region in which the border crossing
2 is to be located.

3 (iii) Traffic congestion and mobility.

4 (iv) The free flow of trade between Canada and this state.

5 (e) Commitments from the appropriate jurisdictions of Canada
6 to provide adequate approach roadways to the bridge.

7 (f) Compliance with all federal and state laws.

8 (3) In determining whether to approve the construction of the
9 border crossing under subsection (1)(g), the authority shall
10 solicit the advice of all of the following:

11 (a) The department of labor and economic growth.

12 (b) The state police.

13 (c) The Michigan department of environmental quality.

14 (d) The Michigan state historical preservation office.

15 (e) The Michigan department of transportation.

16 (f) Any other state agency the authority determines is
17 appropriate.

18 (g) Any local units of government affected by the proposed
19 border crossing.

20 Sec. 5. The authority may do 1 or more of the following:

21 (a) Solicit and accept federal, state, local, and private
22 grants of funds, property, or financial or other aid in any form
23 for the purpose of carrying out the provisions of this act.

24 (b) Act as an applicant for and operator of port of entry
25 facilities and, as the applicant, carry out all tasks and
26 functions, including acquisition by purchase or gift of any real
27 property necessary for port of entry facilities, acquisition by

1 purchase, gift, or construction of any facilities or other real or
2 personal property necessary for a port of entry, and filing all
3 necessary documents and follow-up of the filings with appropriate
4 agencies.

5 (c) As part of a port of entry, give or transfer real
6 property, facilities, and improvements owned by the authority to
7 the United States government.

8 (d) Acquire by construction, purchase, gift, or lease projects
9 that are located within the state.

10 (e) Sell, lease, or otherwise dispose of a project upon terms
11 and conditions acceptable to the authority and in the best
12 interests of the state.

13 (f) Issue revenue bonds and borrow money for the purpose of
14 defraying the cost of acquiring a project by purchase or
15 construction and to secure the payment of the bonds or repayment of
16 a loan.

17 (g) Refinance a project.

18 (h) Make recommendations for improvements to safeguard the
19 public safety and welfare, mitigate traffic, and lessen
20 environmental impact.

21 Sec. 6. (1) All border crossings will be required to apply for
22 an annual permit from the authority.

23 (2) In order to obtain or renew a border crossing permit, a
24 border crossing will have to provide the following information
25 related to its activities, finances, and performance, including any
26 public safety incidences at the crossing, which would include all
27 of the following:

1 (a) Audited financial statements or substantially similar
2 financial documents.

3 (b) Inspection reports.

4 (c) Evaluation of homeland security, hazardous waste, and
5 other safety factors at the crossing.

6 (d) Local traffic impacts of the crossing.

7 (e) General information on the number of vehicles crossing and
8 the value of trade moved across the border.

9 (f) Procedures and policies initiated and applied at the
10 border crossing that ensure the public safety and welfare.

11 (3) Any failure to obtain a permit or to renew an existing
12 permit will allow the authority to temporarily suspend operation of
13 the border crossing until such time as the permit can be renewed or
14 it can be determined that public safety can be ensured at the
15 border crossing.

16 (4) The authority may suspend operation of any border crossing
17 if the authority determines that the operator of the border
18 crossing cannot ensure the public safety.

19 Sec. 7. (1) The authority may levy civil and criminal
20 penalties, not to exceed \$25,000.00 per day, if provisions of the
21 act are violated by any public or privately owned border crossing.

22 (2) In case of a determination by the authority that public
23 safety is in jeopardy, the authority has the power to close the
24 border crossing in question until the threat to public safety is
25 removed.

26 Sec. 8. Power to issue revenue bonds.

27 Sec. 9. The authority can levy an additional fee per vehicle

1 crossing either a privately or publicly owned border crossing in
2 addition to the tolls levied by private or public border crossings
3 in order to fund the oversight required by this act.