HERTEL-LAW-T. STOPCZYNSKI PORT AUTHORITY ACT
Act 639 of 1978

AN ACT to authorize the establishing of port authorities in cities and counties; to prescribe the powers and duties of port authorities, cities, and counties; to authorize the incurrence of contract obligations and the issuance and payment of bonds or other evidences of indebtedness; to provide for a pledge by a city or county of its full faith and credit for the payment of contract obligations entered into under this act and the levy of taxes without limitation as to rate or amount to the extent necessary; to validate obligations issued; to provide for the adoption of a port facilities plan; to provide for the financing of the operating budget of port authorities; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979;—Am. 1998, Act 188, Eff. Mar. 23, 1999.

The People of the State of Michigan enact:

120.101 Short title.

Sec. 1. This act shall be known and may be cited as the “Hertel-Law-T. Stopczynski port authority act”.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.102 Definitions.

Sec. 2. As used in this act:

(a) “Authority” means a port authority created under this act and may also include the area within the jurisdiction of an authority.

(b) “Constituent unit” means a city or county requesting the incorporation of an authority.

(c) “Governing body of the city” means the city council or city commission of a city requesting incorporation of an authority created under this act.

(d) “Governing body of the county” means the county board of commissioners of a county participating in an authority created under this act.

(e) “Port facilities” means those facilities owned by the port authority such as: seawall jetties; piers; wharves; docks; boat landings; marinas; warehouses; storehouses; elevators; grain bins; cold storage plants; terminal icing plants; bunkers; oil tanks; ferries; canals; locks; bridges; tunnels; seaways; conveyors; modern appliances for the economical handling, storage, and transportation of freight and handling of passenger traffic; transfer and terminal facilities required for the efficient operation and development of ports and harbors; other harbor improvements; or improvements, enlargements, remodeling, or extensions of any of these buildings or structures.

(f) “Project” means the acquisition, purchase, construction, reconstruction, rehabilitation, remodeling, improvement, enlargement, repair, condemnation, maintenance, or operation of port facilities.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.103 Port authority; exercise of powers and duties; jurisdiction.

Sec. 3. An authority may exercise and apply any or all of its powers and duties as prescribed and set forth in this act, within the respective boundaries of the county or counties creating a port authority under this act, including jurisdiction over commercially navigable water lying therein.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.104 Port authority; incorporation; recommendations; articles of incorporation; body corporate and politic; public purpose.

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

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

(3) The exercise by an authority of the powers conferred by this act shall be considered and held to be an

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essential governmental function and a benefit to, and a legitimate public purpose of the state, the authority, and the constituent units.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.105 Port authority; appointment and terms of members; vacancy; reappointment; chairperson, vice-chairperson, and secretary-treasurer; quorum; voting; expenses; liability.

Sec. 5. (1) Except as provided in subsection (5), an authority shall consist of 5 or 7 members as follows:

(a) One member shall be appointed by the governor.

(b) The remaining members shall be appointed by the governing body of each city and the governing body of each county that requested the incorporation of the authority. The representation on, and the number of members of, the authority shall be determined by agreement among the incorporating units and included within the joint resolution requesting incorporation of the authority.

(2) The members first appointed shall serve staggered terms. After the first appointment, each member shall serve a term of 4 years, except that a person appointed to fill a vacancy shall be appointed for the balance of the unexpired term. A member shall be eligible for reappointment.

(3) The members shall elect 1 of their membership as chairperson and another as vice-chairperson, shall designate the terms of office of those officers, and shall appoint a secretary-treasurer who need not be a member. A majority of the members of the authority shall constitute a quorum. The affirmative vote of a majority of the members shall be necessary for any action taken by the authority.

(4) The members shall serve without compensation but shall be reimbursed for all necessary travel and other expenses incurred in the discharge of their duties.

(5) An authority that is established in a county having a population of 1,500,000 or more shall consist of 5 members as follows:

(a) One member shall be appointed by the governor.

(b) Two members shall be appointed by a majority of all the members of the county board of commissioners of the county. The members appointed shall be nominated by the commissioners on the board who do not reside within the political boundaries of a city having a population of 750,000 or more.

(c) Two members shall be appointed by the mayor of a city having a population of 750,000 or more that is located in the county.

(6) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, a member of the authority appointed under this section who exercises the powers contained in this act in good faith is immune from civil or administrative liability arising from that conduct, unless the conduct was gross negligence or willful and wanton misconduct.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979;—Am. 2001, Act 244, Imd. Eff. Jan. 8, 2002.

Compiler's note: See Compiler's note to MCL 120.130.

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120.106 Bond of secretary-treasurer.

Sec. 6. Before the issuance of any bonds, notes, or other evidences of indebtedness under this act, the secretary-treasurer of an authority shall execute a bond in the penal sum of $100,000.00, conditioned upon the faithful performance of the duties of the office and executed by a surety company authorized to transact business in this state as surety. The bond shall be filed in the office of the secretary of state. The premium of the bond shall be a current expense of the authority.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.107 Advisory committees and councils.

Sec. 7. An authority may organize and create advisory committees and councils to serve at the pleasure of the authority for terms and purposes considered to be in the best interest of furthering the intent and purpose of this act. The committees and councils shall be made up of persons especially skilled, knowledgeable, or experienced in international trade, finance, commerce, transportation, or labor. Members of the committees or councils shall serve without compensation but shall be entitled to reasonable and necessary expenses incurred in the discharge of their duties.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.108 Port authority; powers generally.

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Sec. 8. An authority may:

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

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

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

(d) Acquire, construct, reconstruct, rehabilitate, improve, maintain, lease as lessor or as lessee, repair, or operate port facilities within its territorial jurisdiction, including the dredging of ship channels and turning basins and the filling and grading of land therefor. An authority may operate a leased facility, owned by the authority, if the lessee defaults and a new lease is negotiated or competitively bid.

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

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

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

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

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

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

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.109 Port authority; additional powers.

Sec. 9. An authority may:

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

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

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

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

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.110 Port authority; additional powers.

Sec. 10. An authority may:

(a) Subject to the authority of the federal government and the state and with the agreement of the constituent units, provide for the preservation of navigation within its territorial jurisdiction, including the establishment by regulation of lines beyond which piers, bulkheads, wharves, pilings, structures, obstructions,

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or extensions of any character may not be built, erected, constructed, or extended; provide by regulation for the stationing, anchoring, and movement of vessels or other watercraft; adopt rules to prevent material, refuse, or matter of any kind from being thrown into, deposited, or placed where it may fall, or be washed, into navigable waters under its jurisdiction; ascertain the depth and course of the channels of those navigable waters; erect and maintain, authorize the erection and maintenance of, and make rules respecting wharves, bulkheads, piers, and piling, and the keeping of the same in repair, to prevent injury to navigation or health; regulate the use of wharves, docks, piers, bulkheads, or pilings owned by it; lease or rent the same, and impose and collect dockage from vessels and watercraft lying at, or using the same; and collect wharfage and other charges upon goods, wares, merchandise or other articles landed at, shipped from, stored on, or passed over the same.

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

(c) Lay out, construct, acquire, operate, lease, sell, and convey planned industrial districts as a part of port facilities within its jurisdiction, subject to the restrictions contained in this act upon operation and ownership of port facilities.

(d) Do all acts and things necessary or convenient to promote and increase commerce and recreation within its territorial jurisdiction and carry out the powers expressly granted and any powers implied or necessary for the exercise of the powers expressly granted in this act.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.111 Port authority; liability.

Sec. 11. Except with respect to docks or wharves owned, controlled, or operated by, the authority, this act shall not be construed to impose a duty upon an authority to a person using its waters in regard to the safety thereof, or to render an authority liable for loss of life or injury or damage to person or property, by reason of an obstruction in, or unsafe condition of, any part of its waters, nor shall this act be construed to render the authority liable in damages or otherwise for an omission to pass or enforce a rule or resolution made under this act.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

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120.112 Acquisition of property by purchase, lease, or condemnation; sale or removal of structures; sale or lease of property.

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

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

(3) An authority may sell or remove the buildings or other structures upon lands taken by the authority, and may sell or lease lands or rights or interest in lands or other property taken or purchased for the purposes of this act.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.113 Contracts for acquisition, improvement, enlargement, or extension of port facilities; payment of cost; pledge of full faith and credit; tax levy; methods of raising funds; assessment of costs.

Sec. 13. (1) An authority and 1 or more constituent units may enter into a contract or contracts for the acquisition, improvement, enlargement, or extension of port facilities and for the payment of the cost thereof by the contracting constituent units, with interest, over a period of not more than 40 years.

(2) Each contracting constituent unit shall pledge its full faith and credit for the payment of its obligations

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under the contract. If the constituent unit has taxing power, each year it shall levy a tax upon all real and personal property within the constituent unit, which may be imposed without limitation as to rate or amount, to the extent necessary for the prompt payment of that part of the contract obligations as shall fall due before the following year's tax collection. The tax shall be in addition to any tax which the contracting constituent unit may otherwise be authorized to levy and may be imposed without limitation as to rate or amount, but shall not be in excess of the rate or amount necessary to pay the contract obligation. If any contracting constituent unit at the time of its annual tax levy has on hand in cash any amount pledged to the payment of the current obligations for which the tax levy is to be made, then the annual tax levy may be reduced by that amount. For the purpose of obtaining the credit, funds may be raised by a contracting constituent unit in 1 or more of the following methods:

(a) By service charge to users of the facilities owned by the port authority.

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

(c) By special assessment upon lands benefited.

(d) By setting aside any other available money.

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

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

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.114 Revenue bonds; applicability of revenue bond act; revenue bonds payable solely from revenues or income.

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

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

(3) Revenue bonds issued pursuant to this section shall not be considered to constitute a debt of this state, a political subdivision of this state, the authority, or any constituent unit, or a pledge of the faith and credit of this state or a political subdivision of this state or of the authority or any constituent unit, but shall be payable solely from the revenues or income to be derived from the projects. The revenue bonds shall contain on their face a statement to the effect that the bonds and attached coupons are payable solely from revenues and are not a general obligation of this state, a political subdivision of this state, the authority, or a constituent unit, and neither the faith and credit nor the taxing power of this state, a political subdivision of this state, the authority, or a constituent unit, is pledged to the payment of the principal of or the interest on the bonds.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979;—Am. 1983, Act 23, Imd. Eff. Apr. 5, 1983;—Am. 2002, Act 412, Imd. Eff. June 3, 2002.

Compiler's note: See Compiler's note to MCL 120.130.

120.114a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 14a. A petition under section 14, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 188, Eff. Mar. 23, 1999.

120.115 Revenue bonds; form; date; denomination; place of payment; redemption; validity of

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signature or facsimile; issuance in coupon or registered form; registration, reconversion, and interchange of bonds.

Sec. 15. An authority shall determine the form of the bonds of each series issued pursuant to section 14, including any interest coupons to be attached thereto, the date of the bonds, the denomination of the bonds, and the place of payment of principal and interest, which may be at any bank or trust company within or without the state. The bonds of each series may be made redeemable before their maturity or maturities at the option of the authority, at a price and under the terms and conditions as may be fixed by the authority before issuance of the bonds. If an officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be an officer before delivery of the bonds, the signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until the delivery. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of coupon and registered bonds.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.116 Revenue bonds; trust agreement.

Sec. 16. Revenue bonds issued pursuant to this act shall be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company, within or without the state. The trust agreement may pledge or assign the rentals and other revenues of the authority, but shall not convey or mortgage part or all of a project. The trust agreement shall contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including convenants setting forth the duties of the authority in relation to the acquisition or construction of a project and the extension, enlargement, improvement, maintenance, operation, repair, and insurance of a project and the custody, safeguarding, and application of all money and may contain provisions for the employment of consulting engineers in connection with the construction and operation of a project. The trust agreement shall set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by the bondholders and may contain any other provisions the authority may consider reasonable and proper for the security of the bondholders.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

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120.117 Bonds as securities; investment; deposit.

Sec. 17. (1) Bonds issued under this act are securities in which all public officers and public agencies of the state and its political subdivisions and all banks, trust companies, savings and loan associations, investment companies, and others carrying on a banking business, all insurance companies and insurance associations and others carrying on an insurance business, all administrators, executors, guardians, trustees and other fiduciaries, and all other persons may legally and properly invest funds, including capital in their control or belonging to them.

(2) Bonds issued under this act are securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or other obligations of the state is authorized by law.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.118 Additional bonds for acquisition of port facilities; authorization; resolution; issuance and execution of bonds; seal; negotiable instruments; maturities; payment; tax exemption; issuance of bonds or notes subject to revised municipal finance act.

Sec. 18. (1) In addition to the bonds authorized in section 14, bonds may be issued for the purpose of acquiring port facilities, as follows:

(a) By the issuance of bonds in anticipation of payments to become due under contracts by which 1 or more constituent units agree to pay to an authority operating under this act certain sums toward the cost of the acquisition, improvement, enlargement, or extension of a project that may be made under this act. Contracts are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

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

(c) By money advanced, from time to time, before or during construction of a project, by a public

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corporation, for which an authority operating under this act shall reimburse the corporation with interest not to exceed 8% per annum or without interest as may be agreed, when funds are available for reimbursement. The obligation of an authority to make the reimbursement may be evidenced by a contract or note, which contract or note may be made payable out of the payments to be made by constituent units under contracts made pursuant to subdivision (b), or out of the proceeds of bonds issued pursuant to this act by the county or out of any other available funds.

(2) Bonds issued under this section shall be authorized by a resolution adopted by the authority. The bonds shall be issued in the name of the authority and shall be executed by the chairperson and secretary-treasurer of the authority, who shall also cause their facsimile signatures to be affixed to the interest coupons to be attached to the bonds. The authority shall adopt a seal that shall be affixed to the bonds. Bonds issued under this section shall be negotiable instruments and shall mature not more than 40 years after the date of issuance. The bonds and coupons shall be made payable in lawful money of the United States and shall be exempt from all taxation whatsoever by this state or by any taxing authority within this state.

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

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979;—Am. 1983, Act 23, Imd. Eff. Apr. 5, 1983;—Am. 2002, Act 412, Imd. Eff. June 3, 2002.

Compiler's note: See Compiler's note to MCL 120.130.

120.119 Validation of bonds or notes; contesting validity.

Sec. 19. Bonds or notes issued under this act by an authority are validated. An authority acting under this act or any constituent unit, including the county, shall not contest the validity of bonds or notes issued under this act or any contract which provides the security therefor, after the bonds are sold and delivered and the authority has received the consideration therefor.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.120 Contract for use of port facilities; increase in charges; duration of contract.

Sec. 20. Any 1 or more municipalities or other public corporations, either within or without an authority, may contract for the use of port facilities from an authority operating under this act. The charges specified in a contract shall be subject to increase by the authority at any time in order to provide funds to meet the obligations of the project involved. A contract authorized pursuant to this section shall be for a period of not more than 50 years.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.121 Dock, waterfront, or riparian property; transfer, possession, or control.

Sec. 21. The governing bodies of constituent units may, by majority vote, and with or without consideration, transfer or cause to be transferred to the authority or may place in its possession and control, by lease, or other contract or agreement, either for a limited period or in fee, any dock, waterfront, or riparian property owned or controlled by a constituent unit.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.122 Tax exemption.

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

(2) This section constitutes a covenant and agreement with the holders of bonds, notes, or other evidences of indebtedness issued by an authority.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.123 Plan for future development, construction, and improvement of port and facilities; notice; comments; hearing; adoption; modification, amendment, or extension; plans for

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specific projects.

Sec. 23. (1) An authority created on or after May 1, 1984 shall within 2 years after its creation prepare or cause to be prepared a plan for the future development, construction, and improvement of the port and its facilities, including the maps, profiles, and other data and descriptions necessary to set forth the location and character of the work to be undertaken by the authority. An authority in existence before May 1, 1984 shall prepare or cause to be prepared the plan provided for in this subsection not later than September 30, 1985. The authority shall notify the legislature on April 15, 1985, as to the progress of the plan. The authority shall cause notice by publication to be given upon the completion of the plan in a daily newspaper of general circulation in the area under the jurisdiction of the authority. The notice shall fix the time and place for hearing on the plan, which shall be not less than 30 nor more than 60 days after publication of the notice. Any interested person may file written comments to the plan, if those comments are filed with the secretary-treasurer of the authority not less than 5 days before the date fixed for the hearing. After the hearing, the authority may adopt the plan, with any modifications or amendments, as the official plan of the authority. The authority, after adoption of the plan, may modify, amend, or extend the plan after notice and hearing in the manner prescribed in this subsection.

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

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979;—Am. 1984, Act 256, Imd. Eff. Nov. 30, 1984.

Compiler's note: See Compiler's note to MCL 120.130.

120.124 Operating budget.

Sec. 24. (1) The authority shall submit in writing a detailed estimate of the budget required for the business and conduct of an authority's affairs, initially, for a 2-year period, and annually thereafter to the governing bodies of its constituent units, the department of commerce, and the department of state highways and transportation for approval. The state shall provide 50% of the operating budget of the authority, to be included in the department of state highways and transportation budget which shall be subject to legislative approval. Fifty percent of the operating budget of an authority in which not more than 1 county and not more than 1 city participate shall be funded equally by the participating county and city.

(2) A city or county creating or participating in an authority may appropriate for the use of the authority, and include in its levy for general fund purposes, an amount considered proper. However, the total amount permitted by law to be levied by a city or county for general fund purposes shall not be considered increased by this section.

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

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.125 Surplus of unencumbered funds; disposition.

Sec. 25. If at the end of a fiscal year a surplus of unencumbered funds remains after providing for the operating expenses of an authority, the authority may pay that surplus into the general funds of the state and of its constituent units in the same proportion which the appropriations made by each to the authority bear to each other.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.126 Entry on lands, waters, and premises; purpose; reimbursement for actual damages.

Sec. 26. For the purpose of making surveys, soundings, drillings, examinations, and investigations as it considers necessary or convenient for the purposes of this act, an authority and its authorized agents and employees may enter upon the lands, waters, and premises in the authority and that entry shall not be considered a trespass; nor shall an entry for these purposes be considered an entry under any condemnation proceedings which may be then pending. The authority shall make reimbursement for actual damages resulting to the lands, waters, or premises as a result of these activities.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

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120.127 Employees of port authority; transfer and payment of sick leave and annual leave; salary rate; job seniority and pension rights.

Sec. 27. (1) The employees of an authority, existing on the effective date of this act, of a city or county which creates or participates in an authority created under this act shall become the employees of that succeeding authority.

(2) Each employee at his or her option may transfer all or part of accumulated sick leave and shall be paid 1/2 of all unused accumulated sick leave not transferred. The employee also may transfer all or part of accumulated annual leave not to exceed more than 27 days and shall be paid for all unused accumulated annual leave not transferred.

(3) The transferred employee shall continue at his or her present salary rate, and if greater than that paid in the constituent unit for similar work, shall remain at the current level until matched by that constituent unit.

(4) Job seniority and pension rights shall be credited as if first employed by the constituent unit.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.128 Annual report; audit.

Sec. 28. An authority shall make an annual report of its activities within 3 months after the close of its fiscal year to the governor and to the governing body of each constituent unit. The report shall include a complete operating and financial statement covering its operations during the year. The authority shall cause an audit of its books and accounts to be made at least once each year by a certified public accountant, with the cost to be treated as an operation expense.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.129 Liberal construction; powers cumulative.

Sec. 29. This act, being necessary for the welfare of the state and its inhabitants shall be liberally construed to effect its purposes. Powers granted in this act shall be cumulative and not exclusive of one another and may be exercised notwithstanding that bonds, notes, or other evidences of indebtedness are not issued.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: See Compiler's note to MCL 120.130.

120.130 Repeal of MCL 120.1 to 120.35; effective date of subsection (1).

Sec. 30. (1) Act No. 234 of the Public Acts of 1925, as amended, being sections 120.1 to 120.35 of the Compiled Laws of 1970, is repealed.

(2) Subsection (1) shall not take effect until the constituent bodies of each port authority created pursuant to Act No. 234 of the Public Acts of 1925 and in existence on the effective date of this act participate in the creation of an authority pursuant to this act and the membership of the commission governing that authority is appointed.

History: 1978, Act 639, Imd. Eff. Jan. 11, 1979.

Compiler's note: The Monroe Port Authority has not created an authority under this act, and continues to operate under, and derive its power from, Act 234 of 1925, being MCL 120.1 to 120.35 of the Michigan Compiled Laws.

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