



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 829 through 832 (as reported without amendment)
Sponsor: Senator Jason E. Allen
Committee: Transportation

Date Completed: 11-18-05

RATIONALE

The Mackinac Bridge Authority (MBA) was established by statute in 1950 to study the feasibility of building a bridge across the Straits of Mackinac. Based on the findings and recommendations of the MBA, in 1952 the Legislature authorized the MBA to construct, maintain, operate, manage, and control the bridge. The MBA oversaw the construction of the bridge and issued bonds to fund the construction. Since the bridge's completion, the MBA has managed the operation and maintenance of the bridge. Its responsibilities include determining appropriate toll rates, collecting tolls, and managing those funds to pay for operation and maintenance. The 1950 statute creating the MBA did not house it in a particular department, and the Authority historically has had a separate budget and autonomy in its management of the bridge.

In 1965, the MBA was transferred to the Michigan Department of Transportation (MDOT) by a type I transfer under the Executive Organization Act (Public Act 380 of 1965, which established the principal State departments and transferred various entities to them). A type I transfer transfers an existing board, commission, department, or agency intact to a principal department. The transferred entity is to exercise its prescribed powers and duties independently of the head of the department, but all budgeting, procurement, and related management decisions of the transferred entity are to be performed under the direction of the department head. Thus, the transfer allowed the MBA to maintain control over the operation of the Mackinac Bridge as an independent entity within MDOT. Nevertheless, there recently was some confusion or misunderstanding as to the

extent of the MBA's autonomy and the degree of control the MDOT Director has over the bridge.

In August 2005, the MDOT Director, as part of a broader effort to reduce expenses, indicated that MDOT would assume responsibility for bridge inspections, security, and insurance, functions that traditionally had been handled by the MBA. The Department estimated that its proposed changes could save about \$200,000 a year, and reportedly had looked at other ways that MDOT could cut costs in the MBA's operations. Members of the MBA and others resisted these changes. In September, the Governor, the MDOT Director, and the Chairperson of the MBA reached an agreement that allows the MBA to retain its traditional responsibilities for the operation of the bridge, and specifies that the MDOT Director will defer to the judgment of the MBA on all matters related to the traditional functions of the Authority.

Some believe that this agreement should be codified in order to avoid any future confusion over the respective roles and responsibilities of the MBA and MDOT regarding the Mackinac Bridge.

CONTENT

The bills would amend various statutes concerning the Mackinac Bridge Authority to do the following:

-- Repeal a section transferring the operation of the Mackinac Bridge to the State Highway Department upon the repayment of refunding bonds issued by the MBA.

- **Transfer the MBA to the MDOT as an autonomous entity within the Department.**
- **Eliminate a provision designating the State Treasurer the treasurer of the MBA; require the MBA board to elect a member to serve as treasurer; and require the MBA to determine the manner of investing funds.**
- **Allow the MBA to contract with any agency, including MDOT, for business and related management functions necessary to assure the bridge's continued operation.**

Senate Bill 831 is tie barred to Senate Bill 832. The bills are described in detail below.

Senate Bill 829

The bill would repeal Section 9 of Public Act 13 of 1966. The Act authorizes the State to borrow money and issue bonds for the purpose of refunding the outstanding bonds issued by the MBA.

Section 9 requires the operation of the Mackinac Bridge to be transferred to the State Highway Department (now MDOT) when the proceeds from the sale of the refunding bonds have been received, and all amounts required to retire the outstanding bonds have been paid to the paying agent out of the proceeds from the sale of the bonds and out of any Mackinac Bridge Authority money on hand. Upon transfer, all property held by the MBA becomes the property of the Department.

Senate Bill 830

The bill would amend the Executive Organization Act to state that the MBA, with all its statutory authority, powers, duties, functions, records, personnel, property, unspent balances of appropriations, allocations, or other funds, including the functions of budgeting and procurement and management-related functions, would be transferred to and would be an autonomous entity in MDOT.

The bill would repeal Section 357 of the Act, which transferred the MBA to the Department by a type I transfer.

Senate Bill 831

The bill would amend the Mackinac Bridge Authority law. Under the law, the MBA consists of seven members, six of whom are to be appointed by the Governor, with the advice and consent of the Senate, for terms of six years each. The seventh member must be the State Highway Commissioner. The bill would refer to the MDOT Director or his or her designee.

The law requires the State Treasurer to serve as treasurer of the Authority. All funds must be handled by the Treasurer in the same manner and governed by the same provisions of law as apply to State funds. The bill, instead, would require the board to elect one member to serve as treasurer, and require the MBA to determine the manner in which funds were invested.

The law authorizes the board to employ and to determine the compensation of such employees as engineers and construction experts, inspectors, and other personnel. The bill would extend that authority to contractual employees.

Senate Bill 832

The bill would amend Public Act 214 of 1952 (which authorized the MBA to acquire a bridge connecting the Upper and Lower Peninsulas of Michigan) to allow the MBA, in its sole discretion, to contract with any agency, including MDOT, for any business and strategic planning, finances, investments, risk management, insurance, inspections, bridge maintenance, repair, inspection, operation, management, improvement, control, budgeting, procurement, and related management functions that the MBA deemed necessary to assure continued operation of the bridge.

MCL 254.369 (S.B. 829)

MCL 16.359 (S.B. 830)

MCL 254.302 (S.B. 831)

MCL 254.324 (S.B. 832)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The MBA historically has been the steward of the Mackinac Bridge, as an independent entity charged with making the best decisions for the bridge. The Authority board is bipartisan, with no more than three of the six appointed members from one political party, and traditionally has acted as a shield from political and budgetary pressures. For 50 years the bridge has been operated under this system, and the MBA has performed its functions well during that time. The bills would reinforce the MBA's status as a separate entity within MDOT and would clarify the relationship between MDOT and the MBA to avoid any future confusion.

Supporting Argument

Although the original bonds financing the bridge were repaid in 1986, the Mackinac Bridge Task Force commissioned by then-Governor Blanchard recommended that the MBA retain control over the operation of the bridge. Among its responsibilities, the MBA is charged with maintaining the bridge. The deck of the bridge will likely need to be replaced in 2017, at an estimated cost of \$180 million. The MBA needs to preserve the funds in its budget set aside for projects such as this, and prevent that money from being diverted into other programs. For this reason alone, it is important that the MBA remain autonomous. The bills would ensure that autonomy.

Opposing Argument

The formal agreement between the Governor, the MDOT Director, and the MBA Chairperson has resolved the issue and has clarified the role of the MBA. It is not necessary to put the agreement into law.

Response: Codifying the agreement would reassure Michigan's citizens that the bridge will remain under the MBA's control. Without a statute to back up the agreement, similar disputes could arise in future administrations over the role of the MBA. Enacting these provisions would give the agreement the full force of law, make it more permanent, and prevent future misunderstandings.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bills would have no fiscal impact on State or local government. As a historical note, Mackinac Bridge bonds issued by the State were repaid in 1986.

Fiscal Analyst: Craig Thiel

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.