



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



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

House Bill 5333 (Substitute H-1 as passed by the House)
House Bill 5339 (Substitute H-1 as passed by the House)
Sponsor: Representative Kevin Elsenheimer (H.B. 5333)
Representative Tom Casperson (H.B. 5339)
House Committee: Transportation
Senate Committee: Transportation

Date Completed: 12-2-05

CONTENT

House Bill 5333 (H-1) would amend Public Act 214 of 1952, which authorized the Mackinac Bridge Authority (MBA) to acquire a bridge connecting the Upper and Lower Peninsulas of Michigan, to repeal sections related to preliminary investigations into the feasibility of constructing the bridge, and authorizing the MBA to employ engineering services in connection with the bridge's acquisition and construction.

House Bill 5339 (H-1) would amend the Mackinac Bridge Authority law to do the following:

- Specify that the MBA is within the Michigan Department of Transportation (MDOT).
- Eliminate a provision allowing the Governor to remove an MBA Board member.
- Prohibit MBA funds from being commingled with any other money, and require the requisition of the MBA chairperson or another authorized officer or agent for expenditures.
- Require MDOT to provide the MBA with personnel to perform its powers, duties, and functions.
- Authorize the Board to use the services of MDOT or other State departments, or contract for various services.
- Require the MDOT Director to serve as the appointing authority for the MBA's executive secretary.

The bills are tie-barred to each other and to Senate Bills 829 and 830. Senate Bill 829 (S-1) would amend Public Act 13 of 1966 (which provides for the issuance and sale of bonds for the purpose of refunding bonds issued by the MBA) to 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. Senate Bill 830 (S-1) would amend the Executive Organization Act to require the MBA to exercise its statutory powers, duties, and functions independently of the MDOT Director, and perform its budgeting, procurement, and related management functions in consultation with the MDOT Director.

The House bills are described below in further detail.

House Bill 5333 (H-1)

The bill would repeal Sections 3 and 14 of Public Act 214 of 1952. Section 3 empowered the MBA to make all preliminary investigations deemed necessary or advisable. It also appropriated to the MBA \$1 to pay the cost of the Authority's organization and other incident preliminary costs, as well as the planning of the bridge and the issuance of bonds.

Section 14 authorized the MBA to employ engineering services it deemed necessary and advisable in connection with the acquisition and construction of the bridge. It also authorized the MBA to employ legal and financial services it deemed necessary to consummate the financing of the bridge and the issuance and sale of the bonds, as well as other personnel and employees necessary to operate and maintain the bridge and carry on the powers and duties under the Act. (House Bill 5339 (H-1) would enact a similar provision, described below.)

House Bill 5339 (H-1)

The bill specifies that the Authority would exist within MDOT. 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 instead would refer to the MDOT Director, or his or her designee from within MDOT, and would require him or her to provide the MBA Board with input and expertise relating to the State's transportation system.

The bill would eliminate a provision allowing the Governor to remove any Board member for misfeasance, malfeasance, or nonfeasance in office, but only for cause and pursuant to public hearing held after 10 days' notice published in a newspaper with general circulation in the State.

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 specifies that Authority funds could not be commingled with any other money. The funds would have to be deposited in a separate bank account, and interest or other earnings accrued would have to be deposited in the same account. Money in the account or accounts could be paid out by the State Treasurer only on requisition of the MBA chairperson or by another officer or agent of the Authority that was authorized by the Board.

The law requires the Board to make all necessary and appropriate rules and regulations for the orderly carrying on of its affairs, subject to the approval of the State Administrative Board. The bill would delete the requirement for the State Administrative Board's approval.

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 delete this language, and instead require MDOT to provide the MBA with sufficient personnel to perform the Authority's powers, duties, and functions under law. Subject to the Management and Budget Act and Public Act 2 of 1921 (which governs the State Administrative Board), the Board would have the authority to use the services of MDOT or other State departments, or to contract for risk management, insurance, engineering, inspection, and other services related to the operation, maintenance, repair, and improvement of the Mackinac Bridge. The Authority in its discretion would be authorized to employ legal and financial services that it deemed necessary to consummate the financing of the Bridge and the issuance and sale of bonds.

The law requires the Board to select a secretary, who need not be a Board member. The bill would delete this requirement. Under the bill, the MDOT Director would serve as the

appointing authority for the executive secretary of the MBA, who would become an MDOT employee and a member of the State classified service. A candidate for the position of executive secretary would not have to be an employee of MDOT or the State classified service before selection. The executive secretary could be selected by the MDOT Director only after consultation with and the approval of the MBA in accordance with rules applicable to employees in the State classified service. On all matters relating the powers, duties, and functions of the MBA under the law, the executive secretary would have to report to the Board. Personnel reviews of the executive secretary would have to be conducted jointly by MDOT and the Board or its designee.

The bill would delete a provision stating that the Authority's corporate existence will continue until all of its duties under the law have been completed.

The bill would repeal Sections 3 and 4 of the MBA law (Public Act 21 of 1950). Under Section 3, no Board member may receive compensation for his or her services, but Board members are entitled to reimbursement for all expenses necessarily incurred in the performance of their duties. The bill would reenact this provision in another section.

Section 3 also authorized the MBA to make all preliminary investigations deemed necessary or advisable, and directed the State Administrative Board to release to the MBA out of the State Highway Fund up to \$100,000 for the accomplishment of the purposes set forth in the law.

Section 4 required the MBA to employ three consulting engineers who had to determine whether a bridge safely and feasibly could be constructed across the Straits of Mackinac and the probable cost of the bridge. Section 4 also required the MBA to furnish geologists and other necessary technicians.

MCL 254.313 & 254.324 (H.B. 5333)
254.302 (H.B. 5339)

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Craig Thiel

S0506\5333sa

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.