

MACKINAC BRIDGE SELF INSURANCE

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Senate Bill 490 as passed by the Senate

Sponsor: Sen. Jud Gilbert, II

Committee: Transportation

Complete to 5-26-09

A REVISED SUMMARY OF SENATE BILL 490 AS PASSED BY THE SENATE

Senate Bill 490 would amend Public Act 21 of 1950 (Extra Session), the Mackinac Bridge Authority's original authorizing legislation, by amending the act's title and by adding a new section, Section 1a. Section 1a would authorize the Mackinac Bridge Authority to enter into an agreement with the Michigan Department of Transportation to provide for the self-insurance of bridge assets and activities.

The bill deals only with the risks associated with tort liability and property loss other than the bridge structure itself. The bill would have no effect on the risks associated with physical damage to the bridge structure. The Authority has not insured the bridge structure for physical damage since September 1, 2002.

The bill indicates that the agreement may provide that, to the extent that claims would have otherwise been paid under an insurance policy carried by the Authority, claims would be paid from a self-insurance reserve account to be established and maintained by the authority. If there were not enough funds in the reserve account to pay a claim, the balance of the claim would be paid by the Department of Transportation from constitutionally-restricted transportation funds; i.e. motor fuel taxes and vehicle registration taxes. The bill directs that the self-insurance account authorized under the bill would be funded from annual payments of not less than \$200,000 until the account equaled at least \$1.0 million after payment of claims from the account. The bill also indicates that with regard to any claims for damages that are covered by the self-insurance agreement authorized under the bill, the department shall defend the Authority and control the course and disposition of the litigation. The department would be required to advise the authority of pending litigation and consult with the Authority regarding disposition of the claim. The department's litigation costs and any settlements or judgments would be charged to the self-insurance account or state transportation funds as provided under the section and the agreement.

BACKGROUND INFORMATION:

The Mackinac Bridge is a remarkable engineering achievement, a tourist attraction, and a symbol of the entire state of Michigan – as well as a major transportation link between Michigan's upper and lower peninsulas. At approximately five miles in length, the bridge is the third-longest suspension bridge in the world. Interest in spanning the Straits of Mackinac with a bridge began in the late 1800s and continued throughout the first half

of the 20th Century.¹ During that time, several feasibility and engineering studies were conducted. But real progress on actual construction of the bridge began in 1950 when the legislature enacted 1950 (Ex Sess) PA 21 to create the Mackinac Bridge Authority.

The Mackinac Bridge Authority reported 3,758,617 crossings in the 2007-08 fiscal year, 318,819 fewer vehicles than the prior fiscal year. Reported operating revenue, from tolls and fees, was \$14.8 million in FY 2007-08, \$848,654 more than FY 2006-07.

Public Act 21 of 1950 (Ex Sess), the statute that established and governs the Mackinac Bridge Authority was recently amended by House Bill 5339 (2005) Public Act 332 of 2005 (Effective: 12/28/2005).

According the Notes to the Mackinac Bridge Authority's FY 2007-08 financial statements, the Authority has commercial insurance for "property loss (other than total loss of the bridge), torts, and errors and omission claims." The financial statements also indicate that: "Effective September 1, 2002, the Authority is not insured for total property loss of the bridge." Bridge management further indicates that the Authority does not insure the bridge for physical damage.

FISCAL IMPACT:

The bill would allow the Mackinac Bridge Authority to establish a self-insurance account and become self-insured with regard to claims up to \$1.0 million. If there were not enough funds in the reserve account to pay a claim, the balance of the claim would be paid by the Department of Transportation from constitutionally-restricted transportation funds; i.e., motor fuel taxes and vehicle registration taxes.

The Mackinac Bridge Authority indicates that it can save money by dropping commercial insurance coverage. The Authority had previously provided insurance premium and claims information which indicated that over the previous five year period, insurance premiums averaged \$237,000 per year while claims averaged \$2,300.

With regard to claims in excess of the amount available in the Authority's reserve account authorized under the bill, risk would be transferred from the Authority, a component unit of the state of Michigan, to the Michigan Department of Transportation – in effect from one state agency to another.

As stated earlier, the bill deals only with the risks associated with tort liability and property loss other than the bridge structure itself. The bill would have no effect on the risks associated with physical damage to the bridge structure. The Authority has not insured the bridge structure for physical damage since September 1, 2002.

Fiscal Analyst: William E. Hamilton

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

¹ A more detailed description of the history of the bridge, as well as bridge specifications and traffic crossing data, can be found on the Mackinac Bridge Authority's web site <http://www.mackinacbridge.org>