

MICHIGAN ALTERNATIVE PROJECT DELIVERY ACT: PUBLIC-PRIVATE PARTNERSHIPS

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Senate Bill 627 (passed by the Senate as S-2)
Sponsor: Sen. Mike Kowall
Senate Committee: Commerce
House Committee: Commerce and Trade
Complete to 12-7-16

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

The bill would create a new act, the "Michigan Alternative Project Delivery Act." In brief, it would do the following:

- Allow a public authority to enter into public-private agreements to develop eligible projects, enter into ancillary agreements to public-private agreements, and exercise eminent domain to acquire property necessary for an eligible project.
- Define "public authority" as the State of Michigan, a state department, or state agency.
- Define "public-private agreement as an agreement between a public authority and one or more private parties for the development of an eligible project. A public-private agreement may include one or more local units of government (i.e., a county, city, township, village, school district, intermediate school district, community college, and public university).
- Define "eligible project" to include either a "facility project" (buildings related to health care delivery or laboratories) or a "transportation project."
- Require a public authority to consider and compare various methods for developing a project and identify the proposed delivery method.
- Require a public authority to consult with the state Budget Director regarding the fiscal impact on affected state agencies when developing a project.
- Allow any lawful source of public and private funding to be used for the development of an eligible project under the proposed act.
- Allow a public authority to impose or increase and collect fees, including user fees.
- Authorize a public authority to include provisions addressing the allocation of project risk, payment terms, utilities, and other matters in a public-private agreement.

- Require a public authority to hold a public hearing not less than every five years after the completion of an eligible project to conduct a public review of the eligible project.
- Specify that authority granted under the act would supplement any existing authority.
- Prescribe a penalty for a person who failed to pay a user fee for use of an eligible project.
- Provide that property developed or held by a private party under a public-private agreement would be exempt from all state and local ad valorem and other property taxes that otherwise would be applicable.
- Specify that a public-private agreement would be subject to the Fair and Open Competition in Governmental Construction Act and the Local Government Labor Regulatory Limitation Act, as applicable.
- Specify that nothing in the proposed act would expand the type of asset or provision of type of services that a public authority would otherwise be authorized to develop under applicable existing law.
- Specify that the proposed act would not affect a public-private agreement entered into before the bill's effective date, or prohibit a public authority from using other legal authority to enter into a public-private agreement.

FISCAL IMPACT:

Without knowing how the new act will be employed by public and private enterprises, it is not possible to determine a fiscal impact at this time.

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