



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

BILL ANALYSIS

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

Senate Bill 711 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Jim Stamas
Committee: Economic Development and International Investment

Date Completed: 9-27-18

RATIONALE

The Detroit/Wayne County Port Authority (DWCPA) owns and operates the only general cargo terminal in Detroit, a terminal that is responsible for the inbound movement of cargo used by the region's industries. It has been suggested that, rather than relying on funding from the State of Michigan, the DWCPA fund itself by issuing revenue bonds and reinvesting fees generated from the bonds into dock facility improvements. Because the Port Authority Act allows a port authority to perform certain maintenance and improvement work on only those port facilities it owns, some contend that the Port Authority should be allowed to make the improvements to parts owned by other entities. Accordingly, it has been suggested that DWCPA be authorized to enter into public - private partnerships, among other things, to improve facilities not owned by the Authority.

CONTENT

The bill would amend the Port Authority Act to do the following:

- **Permit an existing authority to enter into public-private partnerships with other owners or property or port facilities within the authority's jurisdiction.**
- **Amend the definition of "port facility", regarding existing authorities, to refer to facilities whether or not they are owned by the port authority, and to include other property necessary to enhance maritime activities.**
- **Include in the definition of "project" public infrastructure, as well as other property necessary to achieve the purpose of the Act, for existing port authorities.**
- **Provide that projects and port facilities could not include a bridge or a tunnel.**
- **Delete a provision that allows an authority to acquire land and property rights by condemnation.**
- **Allow an authority to receive money from certain sources to finance a project (rather than a port facility).**

Under the Act, an authority may acquire, construct, reconstruct, rehabilitate, improve, maintain, lease, 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 for them.

The bill would allow authorities created before its effective date to enter into public-private partnerships with other owners or property or port facilities within the jurisdiction of the authority.

The bill states that nothing in the Act would limit the property rights of any person that owned property or port facilities within the jurisdiction of the authority. The bill also states that powers granted under the Act would be in addition to those powers granted by charter or other statute.

The Act defines "port facilities" as 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. The bill would delete reference to bridges and tunnels.

For authorities created before the bill took effect, "port facilities" would mean those facilities listed above, whether or not they are owned by the port authority and would include other real or personal property necessary to enhance commercial or recreational maritime activities. Port facilities would not include a bridge or a tunnel, directly or indirectly.

"Project" means the acquisition, purchase, construction, reconstruction, rehabilitation, remodeling, improvement, enlargement, repair, condemnation, maintenance, or operation of port facilities. Under the bill, "project" would include, for authorities created before the bill took effect, public infrastructure, and other real and personal property necessary to achieve the purpose of the Act. Project would not include a bridge or a tunnel, directly or indirectly.

The Act allows an authority to acquire by condemnation land, property rights, rights of way, franchises, easements, and other property, or parts of property or rights in property, 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 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 are exempt from this provision. The bill would delete these provisions.

Under the Act, an authority may sell or remove the buildings or other structures upon land taken by the authority, and may sell or lease land or rights or interest in land or other property taken or purchased for the purposes of the Act.

Under the bill, instead, an authority could sell or remove the buildings or other structures on land *owned or leased* by the authority, and could sell or lease land or rights or interest in land or other property purchased or leased for the purposes of the Act.

Currently, an authority may 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 United States Congress 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 the Act. Under the bill, an authority also could appear in all matters relating to the maintenance of a project financed or supported by the authority.

An authority may apply for, receive and accept from any Federal, state, or municipal agency, foundation, public or private agency, or individual, a grant or loan for the planning, construction, operation, or financing of a port facility. The bill would refer to a project, rather than a port facility.

Under the bill, beginning on its effective date, an authority could not issue revenue bonds under the Act for a project that was not owned by an authority but was financed by an authority unless that project was located within five miles of the commercially navigable waters that provided water access to one or more port facilities within the jurisdiction of that authority.

MCL 120.102 et al.

BACKGROUND

The Port of Detroit is the largest seaport in the State and includes a number of terminals in Detroit, River Rouge, and Ecorse. The commodities shipped into and out of these terminals include stone, coal, cement, and other construction materials for Michigan's roadway infrastructure and buildings. The Port of Detroit's website states that the Port is "the third-largest steel-handling port in the nation". The Port also serves passenger ships.

The DWCPA was created in 1981 via the Port Authority Act, and is the only authority operating under the Act. The Port Authority is operated by a five-member board appointed by the State (one member), Wayne County (two members), and the City of Detroit (two members). According to its website, the DWCPA oversees and promotes commercial and recreational activities along 32 miles of the Detroit River from Lake St. Clair to the Wayne/Monroe County border. The DWCPA also oversees the Port of Detroit, but only owns the NT&D Ecorse Terminal (which is operated by the Nicholson Terminal & Dock Company). All other terminals at the Port of Detroit are owned and operated privately.

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

Many port authorities outside Michigan fund themselves rather than relying on funding from their respective state governments as the DWCPA does. For example, the Cleveland Cuyahoga Port Authority in Cleveland, Ohio, operates a chartered container ship service along the Cuyahoga River. The Cleveland Cuyahoga Port Authority also issues bonds and reinvests revenue from the bonds into improvements made to its dock facilities. The DWCPA could operate in a similar fashion but first, the facilities in the terminal and the surrounding area must be modernized. Most properties in the surrounding area are owned by private entities; therefore, the Authority cannot modify the facilities on those properties under the Act as it currently exists. The bill would allow the Port Authority to make improvements on these properties so that the Port Authority could become profitable and self-funding. This would save taxpayers money while simultaneously making the Port of Detroit more competitive in the Great Lakes region, bringing in more business and investment to the Port and the region.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill could have an indirect, long-term, positive impact on the State and on the City of Detroit and Wayne County. The bill would have no practical, immediate impact on State spending or spending by local units of government.

The bill would allow the Detroit/Wayne County Port Authority (DWCPA) to enter into public-private partnerships with properties and/or port facilities within its jurisdiction. More significantly, the bill would remove the requirement that a port facility be owned by the DWCPA. This would expand the DWCPA's ability to receive and accept Federal, State, municipal, public, or private aid in the construction, operation, or financing of port facility projects.

Under Section 24 of the Act, the State is responsible for providing half of the DWCPA's operating budget. Between 2002 and 2016, the DWCPA nearly always received about \$500,000 each year from the State through the Comprehensive Transportation Fund. In 2017, State funding for the DWCPA was reduced to \$200,000.

In granting the DWCPA more authority to develop and invest in projects within its jurisdiction, the bill could enable the DWCPA to become more self-sufficient, economically. Should new investments by the DWCPA create economic viability, or partial economic viability, the State, the City of Detroit, and Wayne County could reduce appropriations in the long term.

Fiscal Analyst: Michael Siracuse

SAS\A1718\sb711a

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.