

**SUBSTITUTE FOR
HOUSE BILL NO. 5335**

A bill to create the Michigan infrastructure council; and to prescribe the powers and duties of certain state and local agencies and officials.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan infrastructure council act".

3 Sec. 2. As used in this act:

4 (a) "Asset" means infrastructure related to drinking water,
5 wastewater, stormwater, transportation, energy, or communications,
6 including, but not limited to, drinking water supply systems,
7 wastewater systems, stormwater systems, drains, roads, bridges,
8 broadband and communication systems, and electricity and natural
9 gas networks.

1 (b) "Asset class" means a single type of asset including its
2 network and all associated appurtenances critical to its
3 performance.

4 (c) "Asset management" means an ongoing process of
5 maintaining, preserving, upgrading, and operating physical assets
6 cost-effectively, based on a continuous physical inventory and
7 condition assessment and investment to achieve performance goals.

8 (d) "Asset management plan" means a set of procedures to
9 manage assets through their life cycles, based on principles of
10 life cycle costing. An asset management plan may be used as a tool
11 to help an asset owner implement its asset management program.

12 (e) "Asset owner" means a person that owns or operates an
13 asset.

14 (f) "Department" means the department of treasury.

15 (g) "Performance goals" means standards of system performance
16 that reflect asset management principles for asset preservation and
17 sustainability, operations, capacity consistent with local needs,
18 and identified levels of service.

19 (h) "Person" means an individual, partnership, corporation,
20 association, governmental entity, or other legal entity.

21 (i) "Region" means the geographic jurisdiction of any of the
22 following:

23 (i) A regional planning commission created pursuant to 1945 PA
24 281, MCL 125.11 to 125.25.

25 (ii) A regional economic development commission created
26 pursuant to 1966 PA 46, MCL 125.1231 to 125.1237.

27 (iii) A metropolitan area council formed pursuant to the

1 metropolitan councils act, 1989 PA 292, MCL 124.651 to 124.729.

2 (iv) A metropolitan planning organization established pursuant
3 to federal law.

4 (v) An agency directed and funded by section 822f of article
5 VIII of 2016 PA 268, to engage in joint decision-making practices
6 related, but not limited to, community development, economic
7 development, talent, and infrastructure opportunities.

8 (j) "Transportation asset management council" means the
9 transportation asset management council created in section 9a of
10 1951 PA 51, MCL 247.659a.

11 (k) "Water asset management council" means the water asset
12 management council created in section 5002 of the natural resources
13 and environmental protection act, 1994 PA 451, MCL 324.5002.

14 Sec. 3. (1) The Michigan infrastructure council is created
15 within the department.

16 (2) The Michigan infrastructure council consists of the
17 following:

18 (a) Nine voting members appointed pursuant to subsection (3)
19 who are representative of 1 or more of the following:

20 (i) Asset management experts from the public and private
21 sectors with knowledge of and expertise in the areas of planning,
22 design, construction, management, operations and maintenance for
23 drinking water, wastewater, stormwater, transportation, energy, and
24 communications.

25 (ii) Financial and procurement experts from the public or
26 private sector.

27 (iii) Experts in regional asset management planning across

1 jurisdictions and infrastructure sectors.

2 (b) The following nonvoting members:

3 (i) The chairperson of the water asset management council or
4 his or her designee.

5 (ii) The chairperson of the transportation asset management
6 council or his or her designee.

7 (iii) The director of the department of agriculture and rural
8 development or his or her designee.

9 (iv) The director of the department of environmental quality
10 or his or her designee.

11 (v) The director of the department of natural resources or his
12 or her designee.

13 (vi) The director of the department of technology, management,
14 and budget or his or her designee.

15 (vii) The director of the state transportation department or
16 his or her designee.

17 (viii) The state treasurer or his or her designee.

18 (ix) The chairperson of the Michigan public service commission
19 or his or her designee.

20 (3) Voting members of the Michigan infrastructure council
21 under subsection (2)(a) shall be appointed as follows:

22 (a) Five by the governor.

23 (b) One by the senate majority leader.

24 (c) One by the speaker of the house of representatives.

25 (d) One by the senate minority leader.

26 (e) One by the house minority leader.

27 (4) The voting members first appointed to the Michigan

1 infrastructure council must be appointed within 60 days after the
2 effective date of this act.

3 (5) The voting members of the Michigan infrastructure council
4 serve for terms of 3 years or until a successor is appointed,
5 whichever is later, except as follows:

6 (a) Of the members first appointed under subsection (3)(a), 1
7 shall serve for 2 years, 1 shall serve for 1 year, and 3 shall
8 serve for 3 years.

9 (b) Of the members first appointed under subsection (3)(b),
10 (c), (d), and (e), 2 shall serve for 2 years and 2 shall serve for
11 1 year.

12 (6) A vacancy on the Michigan infrastructure council shall be
13 filled for the unexpired term in the same manner as the original
14 appointment.

15 (7) A member of the Michigan infrastructure council may be
16 removed for incompetence, dereliction of duty, malfeasance during
17 his or her tenure in office, or any other cause considered
18 appropriate by the office for whom the appointment was made.

19 (8) The governor shall call the first meeting of the Michigan
20 infrastructure council within 90 days after the effective date of
21 this act. At the first meeting, the Michigan infrastructure council
22 shall elect from among its members a chairperson and other officers
23 as it considers appropriate. After the first meeting, the Michigan
24 infrastructure council shall meet at least quarterly, or more
25 frequently at the call of the chairperson or if requested by 3 or
26 more members.

27 (9) A majority of the voting members of the Michigan

1 infrastructure council and a majority of the nonvoting members of
2 the Michigan infrastructure council constitute a quorum for the
3 transaction of business at a meeting of the Michigan infrastructure
4 council. An affirmative vote of a majority of the voting members of
5 the Michigan infrastructure council is required for official action
6 of the Michigan infrastructure council.

7 (10) The Michigan infrastructure council shall perform its
8 business at a public meeting of the Michigan infrastructure council
9 held in compliance with the open meetings act, 1976 PA 267, MCL
10 15.261 to 15.275.

11 (11) A writing created by the Michigan infrastructure council
12 in the performance of an official function is subject to the
13 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

14 (12) Members of the Michigan infrastructure council serve
15 without compensation. However, members of the Michigan
16 infrastructure council may be reimbursed for their actual and
17 necessary expenses incurred in the performance of their official
18 duties as members of the Michigan infrastructure council.

19 (13) The departments of agriculture and rural development;
20 environmental quality; natural resources; technology, management,
21 and budget; transportation; and treasury shall provide qualified
22 administrative and technical staff to the Michigan infrastructure
23 council.

24 (14) The department of technology, management, and budget
25 shall serve as the central data storage agency for the statewide
26 database provided for in this act.

27 Sec. 4. (1) The Michigan infrastructure council shall do all

1 of the following:

2 (a) Develop a multiyear program, work plan, budget, and
3 funding recommendation for asset management; update these every
4 year; and provide these to the governor and the legislature by
5 September 30 every year.

6 (b) Ensure that the work plan in subdivision (a) includes an
7 emphasis on coordination and integration across asset classes and
8 regions.

9 (c) Prepare an annual report on the current statewide asset
10 management assessment that tracks progress on established
11 performance goals.

12 (d) Undertake research and advise on matters relating to asset
13 management, including all of the following:

14 (i) Funding and financing models.

15 (ii) Best practices.

16 (iii) Information technology advancements.

17 (iv) Emerging technology to advance smart systems.

18 (v) Right sizing and cost-efficiencies.

19 (vi) Impediments to delivery.

20 (vii) Opportunities for greater coordination and collaboration
21 across asset classes and asset owners.

22 (viii) Align and link state incentives to asset performance
23 improvement goals, including cost control, asset management,
24 operational efficiency, and cost-effective regional solutions.

25 (e) Within 180 days after its first meeting, evaluate the
26 regional infrastructure asset management pilot program created
27 under Executive Directive 2017-1, and the findings of the 21st

Century Infrastructure Commission created in Executive Order No. 2016-5, and develop and publish a 3-year strategy for establishing a statewide integrated asset management system. The initial multiyear program, work plan, budget, and funding recommendation under subdivision (a) must include development of the strategy for establishing a statewide integrated asset management system. The strategy must also include, at a minimum, all of the following:

(i) A determination of appropriate assets within the asset classes.

(ii) Consistent data standards and definitions for each asset class.

(iii) Identify and designate a process to plan, analyze, and coordinate asset management across assets and asset owners at the regional level. This process may be implemented through regional planning agencies, the regional prosperity initiative regions, or another approach, which may vary among regions, that ensures all areas of the state are included and efforts are consistent with state and federal requirements. Regions shall be responsible for maintaining and managing the statewide database at a regional level.

(iv) Procedures for data storage, collecting, updating, and reporting.

(v) Recommendations related to the appropriate level of financial support for local asset data collection, local development of asset management plans, regional review and collaboration, and participation in an integrated statewide asset management system.

1 (vi) A process to coordinate the planning efforts of the
2 transportation asset management council, the water asset management
3 council, the Michigan public service commission, and the Michigan
4 economic development corporation, with other state-required asset
5 management planning requirements. In coordinating planning efforts
6 under this subparagraph, the Michigan infrastructure council shall
7 endeavor to provide efficiencies to the planning process and to
8 reduce any unnecessary duplication of effort.

9 (vii) Coordination with the transportation asset management
10 council and the water asset management council to ensure that
11 training and education programs that address all of the following
12 are coordinated across assets:

13 (A) Asset management principles and plan development.

14 (B) The use of the statewide database.

15 (C) Ongoing user support.

16 (D) State department asset management requirements.

17 (viii) Develop statewide performance goals for appropriate
18 assets within each asset class and identify regional and statewide
19 progress toward meeting performance goals.

20 (ix) Protocols that ensure data security and accuracy at the
21 local, regional, and state levels.

22 (x) Development of consistent and coordinated state
23 department, transportation asset management council, and water
24 asset management council asset management plan components and
25 requirements including, but not limited to:

26 (A) Asset inventory, condition assessment, and uniform data.

27 (B) Performance goals.

1 (C) Revenue structure, investment strategy, and capital
2 improvement plan.

3 (D) Asset criticality and risk analysis.

4 (E) Public engagement and transparency.

5 (F) Self-assessment of asset management maturity.

6 (G) Reports at an asset owner, regional, and statewide level.
7 Reporting levels should take into account the size and complexity
8 of the network or system. Priority should be placed on the largest
9 systems.

10 (H) A resolution by the appropriate governing body approving
11 the plan.

12 (I) Certification that asset management is being coordinated
13 to the asset owners' best ability across asset classes and
14 regionally.

15 (f) Beginning 3 years after the effective date of this act,
16 start the second phase of the statewide system for asset management
17 implementation and include, at a minimum, all of the following:

18 (i) Predictive analytics to forecast asset condition.

19 (ii) A public dashboard of state, regional, and local system
20 performance across asset classes, including the appropriate and
21 secure level of geospatial data and aggregated reporting.

22 (iii) Develop and publish a 30-year integrated infrastructure
23 strategy that is updated every 5 years and includes all of the
24 following:

25 (A) Current statewide condition assessment and infrastructure
26 priorities across asset classes, tracked progress on established
27 performance goals, and net changes in asset value.

1 (B) Investment needs to reach targeted overall system ratings
2 and performance goals, with a goal of leveling annual investments
3 to long-term predictable amounts.

4 (C) Network intelligence in asset management planning and
5 monitoring. Retrofit technologies should be considered, pursued,
6 and incorporated as they become available for upgrades and
7 maintenance activities to existing and future assets.

8 (2) The multiyear programs, work plans, budgets, and funding
9 recommendations required in subsection (1)(a), the annual reports
10 required by subsection (1)(c), the 3-year strategy for establishing
11 a statewide integrated asset management system required by
12 subsection (1)(e), and the second phase of the statewide system for
13 asset management implementation required in subsection (1)(f) shall
14 comply with both of the following:

15 (a) Not propose, recommend, or fund any government-owned
16 broadband or telecommunications network to provide service to
17 residential or commercial premises, except that this prohibition
18 does not apply to state expenditures for a transportation purpose,
19 connected vehicle communication technologies, or other
20 transportation-related activities.

21 (b) To the extent government funding is proposed or
22 recommended to subsidize non-government-owned broadband networks to
23 expand service to residential or commercial premises, require that
24 the proposals and recommendations must be limited to areas unserved
25 by broadband, must be technology neutral, and include a competitive
26 bid process that results in the award of the subsidy based on
27 objective and efficient procedures.

1 Sec. 5. (1) This act does not authorize the Michigan
2 infrastructure council to place any obligations or requirements on
3 providers of telecommunications services, broadband services, or
4 wireless services.

5 (2) Any network or financial information provided to the
6 Michigan infrastructure council by a provider of telecommunications
7 services, broadband services, or wireless services is exempt from
8 disclosure under section 13(1)(d) of the freedom of information
9 act, 1976 PA 442, MCL 15.243, provided that it is marked as
10 confidential or commercial information. The Michigan infrastructure
11 council shall preserve the confidentiality of this information.

12 Sec. 6. Funding necessary to support the activities described
13 in this act shall be provided through funds as provided by law.

14 Enacting section 1. This act does not take effect unless all
15 of the following bills of the 99th Legislature are enacted into
16 law:

17 (a) House Bill No. 5406.

18 (b) House Bill No. 5408.