

## MICHIGAN ELECTRIC INFRASTRUCTURE ACT

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<http://www.house.mi.gov/hfa>

**House Bill 4575 as introduced**  
**Sponsor: Rep. Triston Cole**  
**Committee: Energy Policy**  
**Revised on 5-29-15**

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

### SUMMARY:

Briefly, the bill would create the Michigan Electric Infrastructure Act to do the following:

#### Purpose

- ❖ Create a seven-member Michigan Electric Infrastructure Board within the Department of Licensing and Regulatory Affairs and task it with ensuring that adequate resources be able to reach Michigan electric consumers through the construction of transmission infrastructure that will reduce congestion and energy prices, provide for additional transmission capacity, ensure reliable and efficient operation of the integrated electrical transmission system, and support the state's energy policy goals.

#### Board duties

- ❖ Require the board to identify counties in which transmission facilities have experienced constraints causing congestion in the preceding five years, leading to increased electricity prices.
- ❖ Require the board to request interested entities to submit proposals identifying any proposed transmission necessary to:
  - Provide additional transmission capacity to the geographic areas of the state that include the counties identified above, reduce congestion, constraints, and losses on the electrical system, and reduce the overall cost of delivered energy.
  - Ensure the deliverability of generation resources both internal and external to loads throughout the state for purposes of resource adequacy.
  - Facilitate generation resource diversification.
  - Increase the electrical connectivity between the Upper and Lower Peninsulas beyond the capability provided by the two circuits connecting the peninsulas on the bill's effective date, by adding additional circuitry beyond the normal power carrying capacity of those circuits to enable the formation of one resource adequacy zone within the Midcontinent Independent System Operator (MISO) footprint in the state. Initial priority would be given to proposals for a transmission line that accomplishes this goal.
  - Define "resource adequacy zone" to mean a geographic area, defined by a regional transmission organization, for which there must be access to sufficient total generation capacity, both internal and importable into the

zone, to serve load in accordance with the regional transmission organization's requirements.

Proposal/qualified developer

- ❖ Require a proposal to include a preliminary cost estimate for the identified transmission line (all structures, equipment, and real property necessary to transfer electricity at system bulk supply voltage of 100 kilovolts or more), an analysis of the estimated cost impact to retail ratepayers if the cost of the line were allocated to all retail customers located in the MISO footprint, any benefits associated with the transmission line, and a statement from the entity submitting the proposal that indicates why that entity is a qualified developer.
- ❖ Define "qualified developer" to mean either an independent transmission company that commits to support and advocate for the implementation of one resource adequacy zone that includes both the Upper and Lower Peninsulas or an entity that the board determines meets all of the criteria described in the bill, which includes demonstrating:
  - A commitment to support and advocate for the implementation of a resource adequacy zone that includes both peninsulas.
  - Managerial expertise and capability, financial strength and capability, transmission planning and construction expertise and capability, operations and maintenance capability, and exemplary corporate citizenship, all as described by the bill.
- ❖ Specify that documents submitted to the board regarding proposals would not be subject to disclosure under the Freedom of Information Act.

Notice to construct

- ❖ Require a qualified developer, within 30 days of receiving a letter recommending construction of the proposed transmission line, to submit an expression of interest in constructing the transmission line. The board would have to issue a notice to construct within seven days after the developer submitted an expression of interest. If the developer failed to submit the expression of interest within the specified time period, the board could request other submissions of proposals.
- ❖ Define "notice to construct" to mean a notice issued by the board granting an entity the sole right to construct a transmission line until the notice expires.
- ❖ Allow the board to take any actions necessary and appropriate to support a transmission line for which a notice to construct has been issued.
- ❖ Require a qualified developer, within 60 days of receiving a notice to construct, to submit any necessary documents to MISO or other applicable regional transmission organization (RTO) for any required review and approval.

Expedited siting certificate

- ❖ Require a qualified developer to apply to the Michigan Public Service Commission (MPSC) for an expedited siting certificate within 120 days after obtaining any review or approval from MISO or an RTO. Failure to do so would result in revocation of the notice to construct and allow the board to solicit expressions of interest for the transmission line project. The MPSC must approve or deny an expedited siting certificate within 180 days of receiving the application.
- ❖ Specify the information to be included in an application for an expedited siting certificate, e.g., a detailed description, route, and expected configuration and use of the proposed transmission line.
- ❖ Require an applicant for an expedited siting certificate to give public notice of an opportunity to participate in a contested case hearing regarding the application for an expedited siting certificate.
- ❖ Require the MPSC to conduct a proceeding on an application for an expedited siting certificate as a contested case under the Administrative Procedures Act. Each affected municipality (city, township, or village) and each affected landowner must be granted full intervenor status as of right in MPSC proceedings concerning the proposed transmission line.
- ❖ Require the MPSC to grant the expedited siting certificate if the applicant received a notice to construct; the proposed transmission line does not represent an unreasonable threat to the public convenience, health, and safety; and the proposed or alternate route to be authorized by the expedited siting certificate is feasible and reasonable.

Precedence of expedited siting certificate/Eminent domain

- ❖ Provide that an expedited siting certificate granted for a transmission line takes precedence over a conflicting local ordinance, law, rule, regulation, policy, or practice that prohibits or regulates the location or construction of the transmission line. A zoning ordinance or limitation imposed after application for an expedited siting certificate would not limit or impair the transmission line's construction, operation, or maintenance.
- ❖ Specify that the bill does not confer the power of eminent domain. However, in an eminent domain or other related proceeding arising out of or related to a transmission line, an expedited siting certificate would be conclusive and binding as to the public convenience and necessity for that transmission line and its compatibility with the public health and safety or any zoning or land use requirement in effect when the application was filed.

Costs of transmission line for which notice to construct issued

- ❖ Allocate costs of the transmission line to all retail electric customers in the MISO footprint within Michigan.

- ❖ Calculate the revenue requirement for the transmission line pursuant to the open access transmission, energy and operating reserve markets tariff administered by MISO.
- ❖ Require the board to cooperate with the recipient of the notice to construct, the MPSC, and MISO in making any filings necessary to implement the bill's established cost allocation.

Annual report

- ❖ Require the MPSC to issue an annual report to the governor and Legislature with a summary of the impact of the bill and a list of any transmission lines constructed or approved under the bill during the previous year.

Miscellaneous provisions

- ❖ Except for a transmission line for which another entity holds an unexpired, valid notice to construct, the bill would not prohibit an entity from constructing a transmission line without obtaining an expedited siting certificate.
- ❖ Subject an MPSC order relating to any matter provided for under the bill to review as provided in Section 26 of Public Act 300 of 1909.
- ❖ Specify that in administering the bill, the MPSC has only those powers and duties granted to it under the bill.
- ❖ Specify that the business the board may perform be conducted at a public meeting held in compliance with the Open Meetings Act.
- ❖ Require a one-time payment, as detailed in the bill, to an electric utility or independent transmission company owning an existing utility corridor in which a qualified developer locates a transmission line constructed under the bill, if the qualified developer does not own that utility corridor.

**FISCAL IMPACT:**

House Bill 4575, as introduced, would have a fiscal impact, although indeterminate, on the Department of Licensing and Regulatory Affairs (LARA), to the extent that staff from the Michigan Agency for Energy (MAE) and Public Service Commission (PSC) would serve on and presumably provide administrative and technical support to the Michigan Electric Infrastructure Board created by HB 4575. Costs associated with these responsibilities would presumably be supported with existing resources.

Additionally, while the Electric Transmission Line Certification Act, 1995 PA 30, authorizes the PSC to assess application fees on entities applying for certification to cover the PSC's administrative costs to process applications and authorizes the PSC to require entities applying for certifications to pay for consultants assisting the PSC in evaluating applications, HB 4575 does not include similar authorization; accordingly, the PSC's costs

to process applications and conduct proceedings under HB 4575 would be supported by existing fund sources.

The PSC levies annual assessments on public utilities regulated by the PSC pursuant to Section 2 of 1972 PA 299, which stipulates that the PSC "shall ascertain the amount of the appropriation attributable to the regulation of public utilities...[which] shall be assessed against the public utilities" according to a statutory formula and that revenue generated by the assessments "...shall be...utilized solely to finance the cost of regulating public utilities." Consequently, revenue generated by the assessments levied on public utilities may not be available for expenditures related to HB 4575.

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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.