

SUBSTITUTE FOR
SENATE BILL NO. 1215

A bill to amend 1909 PA 279, entitled
"The home rule city act,"
(MCL 117.1 to 117.38) by adding section 5k.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5k. (1) A city may enter into a public-private agreement
2 for a public bridge facility as provided in this section. A public-
3 private agreement must protect the public interest and ensure
4 accountability of the concessionaire to the city.

5 (2) A city may determine or negotiate the terms and conditions
6 of the public-private agreement to facilitate the research,
7 planning, study, design, development, financing, acquisition,
8 construction, renovation, operation, or maintenance of, or charging
9 of a user fee for, a public bridge facility. A public bridge



1 facility described in this section must be publicly owned and
2 dedicated to public use.

3 (3) A public-private agreement must include all of the
4 following:

5 (a) The terms of use and operation of the public bridge
6 facility by a concessionaire for a period of time that the city
7 determines is reasonable and necessary for developing and financing
8 the public bridge facility.

9 (b) A clause that vests ownership of the public bridge
10 facility with the city or a public entity created by the city under
11 the laws of this state, and provides that title to and ownership of
12 the public bridge facility must not be encumbered by a lien,
13 mortgage, or security interest.

14 (c) The terms for terminating the public-private agreement.

15 (d) If the concessionaire will operate the public bridge
16 facility, a reversion clause that states that operation of the
17 public bridge facility will revert to the city when the public-
18 private agreement is terminated.

19 (e) The restrictions imposed on the concessionaire's ability
20 to sell or transfer its interest in the public bridge facility
21 without the consent of the city.

22 (4) The public-private agreement may provide for any of the
23 following:

24 (a) A lease, license, right of entry, or other instrument for
25 the benefit of the concessionaire, as determined by the city to be
26 in the public interest, that may be encumbered by a lien, mortgage,
27 or security interest.

28 (b) An initial operating term not to exceed 75 years from the
29 date of the completion of construction or commencement of the



1 collection of a user fee, if a user fee is collected, whichever is
2 later.

3 (c) The terms for renewing the public-private agreement.

4 (d) The charging and collecting of user fees for the use of
5 the public bridge facility, including the charging and collecting
6 of user fees for different classifications of users.

7 (e) The use, application, or sharing of all or a portion of
8 collected user fees with the concessionaire.

9 (f) A schedule, formula, or mechanism for the adjustment of a
10 user fee.

11 (g) An arbitration, mediation, or other alternative dispute
12 resolution clause.

13 (5) For the duration of the term of a public-private
14 agreement, all of the following apply:

15 (a) A right-of-way acquired through condemnation or private
16 acquisition that is used for a public bridge facility must be
17 contributed and remain publicly owned.

18 (b) Property developed under and subject to the public-private
19 agreement is exempt from all state and local ad valorem and other
20 property taxes that are applicable.

21 (c) The concessionaire's interest in property developed under
22 and subject to the public-private agreement is exempt from taxation
23 under 1953 PA 189, MCL 211.181 to 211.182.

24 (6) A user fee may be imposed on the use of a public bridge
25 facility only if the user fee is imposed for the use of a public
26 bridge facility that is constructed or renovated after the
27 effective date of the amendatory act that added this section. If a
28 user fails to pay a user fee, a reasonable late fee may be charged
29 to the user. If a user fails to pay a user fee and a separate



1 billing is required for the payment, a reasonable administrative
2 fee may be charged to the user in addition to any late fee. A user
3 fee, late fee, or administrative fee charged under this subsection
4 is not subject to regulation by any other governmental agency. A
5 city may enforce and collect or authorize a concessionaire or
6 another person to enforce and collect the payment of a user fee,
7 late fee, or administrative fee under this subsection. A user fee
8 may be imposed, charged, and collected by manual, digital, or
9 electronic means, including, but not limited to, video,
10 transponder, tag, camera, or any other similar technology.

11 (7) If a person fails to pay a user fee as required under
12 subsection (6) within 180 days, the city or a person authorized by
13 the city may bring a civil action against the person to collect the
14 user fee. If the civil action results in a judgment against the
15 person owing the user fee, the person owing the user fee must
16 reimburse the city for all costs of enforcement and collection,
17 including filing and attorney fees.

18 (8) This section does not affect or otherwise impair either of
19 the following:

20 (a) A public-private agreement or any other agreement that a
21 city enters into before the effective date of the amendatory act
22 that added this section.

23 (b) A public-private agreement or any other agreement that the
24 city enters into for the development of a public bridge facility
25 that is outside the scope of this section.

26 (9) Before a city enters into a public-private agreement that
27 provides for the charging and collecting of user fees for the use
28 of a public bridge facility, the city shall hold a public hearing
29 on the public-private agreement. Before modifying the terms of a



1 public-private agreement that provide for the charging and
 2 collecting of user fees for the use of a public bridge facility, a
 3 city shall hold a public hearing on the proposed modifications to
 4 the public-private agreement. A public hearing held under this
 5 subsection must be conducted in accordance with the open meetings
 6 act, 1976 PA 267, MCL 15.261 to 15.275. The public hearing must be
 7 conducted so as to provide a reasonable opportunity for public
 8 comment, including both oral and written comment. A city that holds
 9 a public hearing under this subsection shall make reasonable
 10 accommodations to allow for public participation through electronic
 11 formats, including the opportunity to view the public hearing
 12 through an internet broadcast and to submit comments by digital
 13 means.

14 (10) As used in this section:

15 (a) "Concessionaire" means a private entity that has entered
 16 into a public-private agreement.

17 (b) "Governmental entity" means an entity created under a
 18 state statute and operated for a public purpose.

19 (c) "Private entity" means an individual, corporation, general
 20 partnership, limited liability company, limited partnership, joint
 21 venture, business trust, public benefit corporation, nonprofit
 22 entity, or any other nongovernmental business entity.

23 (d) "Public bridge facility" means a bascule bridge, a roadway
 24 or ramp that supports the bascule bridge, and any other equipment,
 25 building, structure, parking area, appurtenance, or other real or
 26 personal property necessary or desirable for and any future new
 27 construction to replace a bascule bridge, a roadway or ramp that
 28 supports the bascule bridge, and any other equipment, building,
 29 structure, parking area, appurtenance, or other real or personal



1 property necessary or desirable for the bascule bridge that is in
2 existence on the effective date of the amendatory act that added
3 this section. A public bridge facility does not include a bridge or
4 infrastructure directly associated with an international bridge
5 crossing.

6 (e) "Public-private agreement" means an agreement between a
7 city and a private entity or between a city, a private entity, and
8 1 or more governmental entities that relates to researching,
9 planning, studying, designing, developing, financing, acquiring,
10 constructing, renovating, operating, or maintaining, or charging a
11 user fee for, a public bridge facility.

12 (f) "User fee" means a toll, consumption charge, rent, license
13 fee, or another similar or ancillary charge that is related to the
14 use of a public bridge facility. User fee includes, but is not
15 limited to, a fee or charge for creating, maintaining,
16 administering, billing, and collecting an account.

17 Enacting section 1. This amendatory act does not take effect
18 unless all of the following bills of the 100th Legislature are
19 enacted into law:

20 (a) Senate Bill No. 1217.

21 (b) Senate Bill No. 1218.

