

SENATE BILL NO. 1215

November 12, 2020, Introduced by Senators HORN, MOSS and SCHMIDT and referred to the Committee on Economic and Small Business Development.

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,**

1 planning, study, design, development, financing, acquisition,
2 construction, renovation, operation, or maintenance of, or charging
3 of a user fee for, a public bridge facility. A public bridge
4 facility described in this section must be publicly owned and
5 dedicated to public use.

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

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

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

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

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

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

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

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

1 or security interest.

2 (b) An initial operating term not to exceed 75 years from the
3 date of the completion of construction or commencement of the
4 collection of a user fee, if a user fee is collected, whichever is
5 later.

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

7 (d) The charging and collecting of user fees for the use of
8 the public bridge facility, including the charging and collecting
9 of user fees for different classifications of users.

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

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

14 (g) An arbitration, mediation, or other alternative dispute
15 resolution clause.

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

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

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

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

27 (6) A user fee may be imposed on the use of a public bridge
28 facility only if the user fee is imposed for the use of a public
29 bridge facility that is constructed or renovated after the

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

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

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

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

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

29 (9) As used in this section:

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

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

5 (c) "Private entity" means an individual, corporation, general
6 partnership, limited liability company, limited partnership, joint
7 venture, business trust, public benefit corporation, nonprofit
8 entity, or any other nongovernmental business entity.

9 (d) "Public bridge facility" means a new or existing bridge, a
10 roadway or ramp that supports the bridge, and any other equipment,
11 building, structure, parking area, appurtenance, or other real or
12 personal property necessary or desirable for the bridge. A public
13 bridge facility does not include a bridge or infrastructure
14 directly associated with an international bridge crossing.

15 (e) "Public-private agreement" means an agreement between a
16 city and a private entity or between a city, a private entity, and
17 1 or more governmental entities that relates to researching,
18 planning, studying, designing, developing, financing, acquiring,
19 constructing, renovating, operating, or maintaining, or charging a
20 user fee for, a public bridge facility.

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

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

29 (a) Senate Bill No. 1218.

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(b) Senate Bill No. 1217.