MICHIGAN INFRASTRUCTURE COUNCIL ACT

Act 323 of 2018

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

History: 2018, Act 323, Imd. Eff. July 2, 2018

The People of the State of Michigan enact:

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21.601 Short title.

Sec. 1.

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

History: 2018, Act 323, Imd. Eff. July 2, 2018

21.602 Definitions.

Sec. 2.

As used in this act:

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

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

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

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

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

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

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

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

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

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

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

(iii) A metropolitan area council formed pursuant to the metropolitan councils act, 1989 PA 292, MCL 124.651 to 124.729.

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

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

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

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

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21.603 Michigan infrastructure council; creation; membership; terms of members; removal; quorum; department of technology, management, and budget central data storage agency.

Sec. 3.

(1) The Michigan infrastructure council is created within the department.

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

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

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

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

(iii) Experts in regional asset management planning across jurisdictions and infrastructure sectors.

(b) The following nonvoting members:

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

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

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

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

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

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

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

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

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

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

(a) Five by the governor.

(b) One by the senate majority leader.

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

(d) One by the senate minority leader.

(e) One by the house minority leader.

(4) The voting members first appointed to the Michigan infrastructure council must be appointed within 60 days after the effective date of this act.

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

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

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

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

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

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

(9) A majority of the voting members of the Michigan infrastructure council and a majority of the nonvoting members of the Michigan infrastructure council constitute a quorum for the transaction of business at a meeting of the Michigan infrastructure council. An affirmative vote of a majority of the voting members of the Michigan infrastructure council is required for official action of the Michigan infrastructure council.

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

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

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

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

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

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21.604 Michigan infrastructure council; duties; annual report; statewide asset management system.

Sec. 4.

(1) The Michigan infrastructure council shall do all of the following:

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

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

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

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

(i) Funding and financing models.

(ii) Best practices.

(iii) Information technology advancements.

(iv) Emerging technology to advance smart systems.

(v) Right sizing and cost-efficiencies.

(vi) Impediments to delivery.

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

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

(e) Within 180 days after its first meeting, evaluate the regional infrastructure asset management pilot program created 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.

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

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

(A) Asset management principles and plan development.

(B) The use of the statewide database.

(C) Ongoing user support.

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(D) State department asset management requirements.

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

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

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

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

(B) Performance goals.

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

(D) Asset criticality and risk analysis.

(E) Public engagement and transparency.

(F) Self-assessment of asset management maturity.

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

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

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

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

(i) Predictive analytics to forecast asset condition.

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

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

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

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

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

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

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

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

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21.605 Michigan infrastructure council; limitations; telecommunications services, broadband services, or wireless services; exempt from disclosure.

Sec. 5.

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

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

History: 2018, Act 323, Imd. Eff. July 2, 2018

21.606 Funding.

Sec. 6.

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

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