

INTERNATIONAL BRIDGE CROSSING PROJECT

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House Bill 4635

Sponsor: Rep. Rashida Tlaib

Committee: Transportation

Complete to 6-14-11

A SUMMARY OF HOUSE BILL 4635 AS INTRODUCED 5-11-11

The bill would require the Michigan Department of Transportation to help communities affected by an international crossing project to enter into a community benefits agreement with contractors, developers or concessionaires, if the department issues a request for proposals for construction of an international bridge crossing project. The bill is an amendment to Public Act 286 of 1964, the act under which the State Transportation Commission and the Department of Transportation are organized.

Community Benefits Agreement Mandate

If the Department of Transportation issues a request for proposals (RFP) for construction of an international bridge crossing project, the RFP would require that a community benefits agreement be entered into by the project's contractor, developer, or concessionaire.

The bill defines "Community Benefits Agreement" to mean a contract between the state and a contractor, developer, or concessionaire that is obtained with the advice of the nonprofit organization of the host community that addresses host community concerns including the areas listed in the bill. A community benefits agreement would not be limited to a satisfaction of only the minimum requirements under federal law. "Host Community" is defined to mean the neighborhood community in which the construction for an international bridge crossing project occurs, including bridge, plaza, and direct access road, and where residences and businesses are displaced due to the international bridge crossing project.

Development of Community Benefits Agreement by Host Community

Before any request proposals for an international bridge crossing project could be initiated, MDOT would be required to consult with the host community as represented by "a nonprofit organization with members in the host community that has engaged residents and stakeholders." The nonprofit's organizational purpose must be to ensure that the interests of residents, businesses, and organizations proximate to the host community are recognized and protected in a community benefits agreement.

The department would be required to provide technical support, advice, and resources to the nonprofit organization concerning a community benefits agreement. After receiving such information, but before any agreement is made concerning construction of the project, the nonprofit organization would provide its criteria for an agreement to the

department within a reasonable time frame set by the department and consistent with the timeline of the selection or construction process.

Contents of an Agreement

The bill would specify the minimum contents of a community benefits agreement. The agreement would have to include a timeline for certain accomplishments listed in the bill and penalties if timelines are not met. The timeline would have to require that all of the following be accomplished before the international bridge crossing is open to public transportation.

- Specific monitoring of noise, vibration, air quality, residential health, and truck traffic, both short-term and long-term, in the project area.
- A plan to assure job training and education for host community residents and access to employment opportunities, as well as a plan to promote the hiring of host community residents on the bridge crossing project, including opportunities and hiring with the project's developer, contractor, subcontractors, and concessionaire.
- A plan to assure that any negative impact on existing businesses in the host community is minimized and mitigated and that provides incentives for start-up businesses to become established after the bridge crossing opens.
- The preservation and creation of parks and development of green spaces.
- Guarantees that current residents of affected host communities will receive full opportunity for new housing if they are displaced and that they not be required to pay out of pocket for expenses associated with displacement and relocation or for home repair due to damage caused by the construction.
- Guarantees that host community representatives will serve in an ongoing advisory capacity on the project and in oversight of the construction and maintenance of the project.

In Case of Default

If a contractor, developer, or concessionaire defaults on a community benefits agreement, the Department of Transportation or an authorized entity would have to perform the duties required under the agreement.

Submission of Written Reports

By March 1 of each year for the duration of the agreement, the department would be required to submit a written report quantifying the progress toward meeting the timelines to the Senate and House standing committees on Transportation and to the host community.

FISCAL IMPACT:

The bill states that if the Department of Transportation issues a request for proposals (RFP) for the construction of an international bridge crossing project, for a bridge which does not exist on the effective date of the enacted bill, the RFP would be required to require a community benefits agreement, as defined in the bill, of the project's contractor,

developer, or concessionaire. The bill defines "Community Benefits Agreement," as a contract between the state and a contractor, developer, or concessionaire obtained with the advice of the nonprofit organization of the host community that addresses host community concerns; under the bill a community benefits agreement would not be limited to a satisfaction of only the minimum requirements under federal law.

Nonetheless, a number of the potential community concerns listed in the bill, such as noise, vibration, and air quality impacts, impacts on business, and displacement and relocation costs, are already addressed in state and federal law and are the subject of environmental clearance process. As examples: the right of way acquisition process is governed by the requirements of 23 CFR 710; environmental impact and related procedures are addressed in 23 CFR 771. To the extent that the department already engages in many activities required by the bill, additional state costs could be marginal. There is no apparent fiscal impact on local units of government.

However, to the extent that activities required by a community benefits agreement would be required of the project's contractor, developer, or concessionaire, those costs could be factored into contractor, developer, or concessionaire bid development. The amount of additional contract costs cannot readily be determined.

We note that the bill would establish a new mandate for the Michigan Department of Transportation. However, it is our understanding that development of a new international bridge crossing project may be effected through a separate governmental authority of some type and not directly by the department.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.