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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

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ENROLLED BILL ANALYSIS

BILL: HB 4737

TOPIC: Various amendments to Act 51 of 1951: general funds, warranties, pavement study

SPONSOR: Rep. McCready

CO-SPONSORS: Representatives Poleski, Victory, Cox, Muxlow, Yonker and Price

COMMITTEE: House Transportation and Infrastructure

ANALYSIS DONE BY: Aarne H. Frobom

DATE OF COMPLETED ANALYSIS: November 5, 2015

REVIEWED BY: DA ML

SHORT SUMMARY/HIGHLIGHTS OF THE BILL

Allow Transportation fund to receive General Fund and other non-user fees.
Impose warranty requirement on counties and cities.
Require study of long-lived pavements.
Create new program for railroad crossings on local roads.
Withhold $100,000,000 in MTF distributions to all agencies until released by legislature.

ADMINISTRATION POSITION

Support.

PROBLEM/BACKGROUND

The Michigan Transportation Fund is limited in statute to receiving only vehicle-related user fees.

DESCRIPTION OF BILL

Allow the MTF to receive funds from any source, not just road-user fees.

Create new $3,000,000 Grade-crossing Surface Fund and program; establish process for prioritizing crossing-repair projects on local roads only (not trunklines)

Change formula to increase restricted share for STF debt service to $50 million from $43 million.

Restrict MDOT (not local) administrative expenses to 8%, reduced from 10%.

Require warranties for "full replacement or appropriate repair," "where possible" for pavement projects over $2,000,000 by all 616 local road agencies. Require reports on warranties, including number of warranties, costs, and projects that did not meet their "expected lifespan" and the causes of failure, the cost to repair or replace, and the entity responsible. Require 616 proposed local warranty programs to be submitted to MDOT for approval by April 1, 2016 for counties and Feb. 1, 2017 for villages and cities.

Allow cities with over 10 million bus riders/year (Detroit, possibly others) to flex 20% of street aid to transit, with MDOT approval (*consumes some of 10% constitutional limit on non-roads spending*).

Add new Sec. 1j to require reports by "a special internal task force" of MDOT to be called the "Road Innovation Task Force." By March 1, 2016 (*before effective date of act*), present a final report at public legislative hearings. The report is to:

Study materials and methods that can produce "roads lasting at least 50 years" at higher quality and reduced maintenance cost.

Evaluate materials and processes that may have higher first cost but reduce "net present value 50 year life cycle costs" by at least 50 per cent relative to MDOT's current practice.

Demonstrate how, within 10 years, "no state roads" (presumed to mean trunklines) can be in "poor" condition, with no net deterioration in PASER ratings below their 2015 condition, without use of debt financing.

By June 1, 2016, report on how the Department intends to accomplish the improvement, and the expected savings; recommend "boilerplate language" enabling the Department to implement the plan.

Create new Roads Innovation Fund. Beginning in Fiscal 2017, appropriate $100,000,000/year in fuel-tax revenues until "released" by a vote of the legislature (presumably on approval of report); stop appropriations upon release. Distribute Fund through usual Act 51 4-way roads and transit formula. No restrictions on use of Fund by 697 road and transit agencies.

Effective April 1, 2016.

Tie-barred to SB 414, HBs 4370, 4614, 4616, 4736 and 4738.

SUMMARY OF ARGUMENTS

Pro: The Michigan Transportation Fund should be eligible to receive other than road-user fees, to enable road and transit funding from the General Fund, when appropriate.

Financially-weak short-line railroad companies do not have sufficient funds to keep rural grade crossings in good repair. This money must inevitably be supplied by the state government, especially for state-owned rail lines.

The same warranty policy should apply to county and village and city projects as to MDOT projects. The $2,000,000 threshold is appropriate, to avoid burdening small projects with the additional cost of a warranty.

The City of Detroit faces severe demands on scarce cash for bus maintenance and operation, and the need is more immediate than for street maintenance.

It may theoretically be possible to achieve lower net present value of all future pavement life-cycle costs by investing in much more expensive but longer-lived pavement designs.

Con: By erasing the boundary between transportation and general-purpose spending, this bill returns Michigan to the pre-1925 practice in which roads compete with all other public needs for General Fund money. Michigan was one of the first states to abandon this practice, and few other states use significant amounts of General Fund money for roads. This bill, in combination with HB 4370, will complicate all future budget debates. Road funding may be reduced at any time by future legislatures.

In combination with HB 4370, this bill abandons the user-pay principle, and burdens taxpayers generally with road costs.

The Roads Innovation Fund risks delaying the distribution of $100,000,000/year in aid for state highways, local roads, and public transportation to all 697 Act 51 agencies, unless released before the beginning of Fiscal 2017. This Fund serves no purpose.

Achieving the unrealistically pavement-condition goals in the pavement-life report would cost many billions of dollars per year for years to come. No road agency anywhere has ever built roads with a 50-year design life. Over-investing in long-lived pavement could be extremely wasteful; it is not possible to predict whether the designs of today will still be usable 50 or more years in the future.

Expenditures of city street funds for transit by Detroit (and possibly other cities) will count against the limit in Art. IX, Sec. 9 of the Constitution, on spending of road-user fees for other than roads. The 10-per-cent maximum applies to spending from all vehicle and fuel taxes by <u>all</u> transit agencies statewide, including MDOT and regional agencies.

FINAL PASSAGE VOTES

Senate: 27–11
House: 73–34

FISCAL/ECONOMIC IMPACT

Are there revenue or budgetary implications in the bill to the –

(a) Department

Budgetary: This bill allows the MTF to receive General Fund money, or money from any other budgetary source.

Revenue: This bill increases funds for MDOT by $7,000,000/year restricted to debt service, and reduces the STF share by $1,173,000 for the railroad crossing account.

Comments:

(b) State

Budgetary: Road and transit funding will compete with all other departments of state government in future budgets .
Revenue:
Comments:

(c) Local Government

Budgetary: This bill allows the MTF to receive General Fund money, or money from any other budgetary source, for distribution to local road and transit agencies.
Revenue:
Comments:

OTHER STATE DEPARTMENTS: No direct impact. All other state departments will compete for General Fund money with roads and transit.

ANY OTHER PERTINENT INFORMATION: The concurrent resolution releasing the Roads Innovation Fund needs to be adopted before October 1, 2016 if distributions are not to be delayed.

ADMINISTRATIVE RULES IMPACT: None.