

SFA

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bill 659 (as enrolled)
Senate Bill 660 (as enrolled)
Sponsor: Senator Connie Binsfeld
Senate Committee: State Affairs, Tourism, and Transportation
House Committee: Appropriations

Date Completed: 1-9-90

PUBLIC ACT 218 of 1989
PUBLIC ACT 219 of 1989

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RATIONALE

As part of a comprehensive transportation funding package. Public Acts 231 and 233 of 1987 created the transportation economic development program. Public Act 231 established the Transportation Economic Development Fund, set forth general criteria for funding projects in urban areas, allocated sums to various categories of projects, and provided for the issuance of bonds to help fund the program. Public Act 233 set forth general criteria for funding projects in rural areas. Both Acts assigned administrative authority for the program to the State Transportation Commission and made the Commission the contracting agent for projects to be funded under the Acts. The Commission also was assigned the role of issuing bonds, and has proceeded with the development of a \$100 million bond issue to facilitate the construction of 131 transportation projects affecting over 67 communities. According to a letter opinion of the Attorney General, however, Public Acts 231 and 233 impermissibly empowered the Commission, rather than the Michigan Department of Transportation, to administer the Fund and issue bonds (October 20, 1989). The opinion states that Proposal M of 1978 amended Article 5, Section 28 of the State Constitution "by removing the Commission from the administration of transportation programs. As a result, the Commission is now, to use the words of the Constitution, a body 'which shall establish policy for the state transportation department.' As the Constitution further

states: "The director of the state transportation department [sic]...shall be responsible for executing the policy of the state transportation commission." Therefore, "the Legislature has created a program which is fatally flawed and cannot be financed by the issuance of bonds. However, this is a flaw which the Legislature can correct by amending these statutes to shift the administrative responsibilities to MDOT". In order to enable the bonds to be sold, many believe that the Legislature should follow this suggestion.

CONTENT

Senate Bill 659 would amend Public Act 231 of 1987 to create the Office of Economic Development within the Department of Transportation (DOT); require the Office to administer the Transportation Economic Development Fund in accordance with the adopted policies of the State Transportation Commission; provide for certain responsibilities of the Commission concerning applications for funding to be performed instead by the "administrator", who would be the person appointed by the DOT, in accordance with Commission policies and Civil Service rules, to serve as director of the Office; require the Department to award contracts in accordance with Commission policies; require the DOT, rather than the

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Commission, to be the contracting agent for all projects to be funded under the Act; revise responsibilities of the Commission; and require the Office to review each project application and recommend the award of funding to selected projects in accordance with the adopted policies of the Commission.

Senate Bill 660 would amend Public Act 233 of 1987 to provide for the administrator (the director of the proposed Office of Economic Development) to perform certain functions that are currently the responsibility of the State Transportation Commission; and to require the DOT to award contracts in accordance with Commission policies.

Both bills also would redefine "project", which means a transportation road improvement, to include a transportation road construction.

A more detailed explanation of Senate Bill 659 follows.

Currently, the Commission is required to review each project application and award funding to selected projects. The bill would require the Commission, instead, to exercise oversight as it considered appropriate to facilitate its development of policy for administration of the Fund. The bill also would require the Commission to review all projects recommended for funding to assure that they satisfied Commission policies and criteria.

The Act provides that no funds may be committed to any project, and a project may not be authorized for funds under the Act, until the Commission gives notice of the proposed projects to the subcommittees on transportation of the Senate and House Appropriations Committees. Hearings may be conducted to give interested parties the opportunity to be heard. If hearings are not conducted by the transportation subcommittees within 60 days of project notification by the Commission, the Commission may proceed with project authorization for funding. The bill would require the Commission also to give notice of proposed projects to the Senate Committee on State Affairs, Tourism, and Transportation and the House Committee on Transportation. The

bill provides that the Department could proceed with project authorization for funding if hearings were not conducted by these Committees and the transportation subcommittees within 30 days, if both the Senate and House were in session, or 60 days, if either house were not in session.

MCL 247.901 et al. (Senate Bill 659)
247.931 and 247.932 (Senate Bill 660)

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

ARGUMENTS

Supporting Argument

The bills would make revisions in administrative structure necessary to satisfy the Attorney General's criticisms of Public Acts 231 and 233 of 1987. By doing so, the bills would enable a major bond issue to go forward and would facilitate the distribution of funds for a number of vital local projects. The Commission would still act as the oversight body to develop policy for the Fund's administration, while the Department would administer the Fund in the same manner and method as prescribed in the original legislation.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

HOUSE LEGISLATIVE ANALYSIS SECTION

Senate Bill 660

Analysis 1st 11-15-89

See 659

SENATE ANALYSIS SECTION

SENATE BILL 660

ANALYSIS Enrolled

SEE SB659