



**House
Legislative
Analysis
Section**

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CIVIL INFRACTION PROCEDURES

Senate Bill 677 (Substitute H-1)
Sponsor: Sen. Philip E. Hoffman

Senate Bill 808 (Substitute H-1)
Sponsor: Sen. Don Koivisto

House Committee: Appropriations
Senate Committee: Appropriations

Revised First Analysis (12-11-01)

THE APPARENT PROBLEM:

In light of the economic downturn experienced in the state this year, a budget shortfall has been predicted for the 2001-2002 fiscal year. Based on writings prepared by the state budget director and state treasurer, a finding has been made that actual revenue will fall below the revenue estimates that the appropriations for the various state departments were based upon. In circumstances such as this, the Michigan Constitution allows the governor to make reductions in departmental appropriations via an executive order with the approval of the appropriating committees of the House of Representatives and the Senate.

In particular, Executive Order No. 2001 – 9 slashed \$4.5 million from revenue appropriated to the Department of State Police for the secondary road patrol and traffic accident program basic grants. This grant program provides county sheriff departments with funding for patrol of county and local roads outside the corporate limits of cities and villages. This program currently is funded primarily by an assessment of \$5 which is levied by courts on top of other fines and costs associated with a civil infraction determination under the Michigan Vehicle Code (traffic citations). Executive Order No. 2001 – 9 calls for this assessment to be doubled to \$10 to make up for the appropriations reduction.

Similarly, the appropriation in the Department of Corrections budget to fund the county jail reimbursement program (CJRP), which was created in 1989 and placed in statute in 1998, was also reduced by \$4.5 million for the current fiscal year. The CJRP is an important program that enables counties to locally house convicted felons who typically would be sent to a state prison. It has been suggested that an assessment of \$5 be added to the

other assessments currently levied on traffic fines and used to support the continuation of the CJRP.

In a separate matter, it has been reported that some judges have engaged in the practice of waiving fines for traffic offenses while retaining court costs and assessments. Such a practice is at odds with current statutory provisions governing the levying and collection of civil infraction fines, court costs associated with the traffic offense, and the assessments mentioned above. Legislation has been proposed to prohibit a court from waiving a civil fine for a traffic citation unless the court costs allowed under law are also waived.

THE CONTENT OF THE BILLS:

Senate Bill 677 would amend the Michigan Vehicle Code (MCL 257.629e) to increase the assessment fees applied to civil infractions. Currently, a court is required to levy a highway safety assessment of \$5 and a secondary road patrol and training assessment of \$5 for each civil infraction determination except for a parking violation or a violation for which the total fine and costs imposed are \$10 or less. The bill would raise the secondary road patrol and training assessment from \$5 to \$10 and would also create a jail reimbursement program assessment of \$5. In addition to the highway safety fund and the secondary road patrol and training fund that are administered by the Department of State Police (DPS), the bill would create the jail reimbursement program fund in the Department of Treasury. This fund would be administered by the Department of Corrections (DOC).

Money remaining in any of these funds at the end of a fiscal year would not lapse but would remain in the

Senate Bills 677 and 808 (12-11-01)

respective funds for use for the purpose of the funds. The money in the jail reimbursement program fund would have to be used by DOC to reimburse counties for housing and custody of convicted felons under the requirements of Section 35 of Chapter IX of the Code of Criminal Procedure.

Should the revenue received from the \$10 assessment for secondary road patrol and training for a fiscal year increase the total revenue received from all sources for that fund for that fiscal year, then the general fund appropriation would have to be reduced proportionally to the additional revenue that had been collected and remitted as a result of the assessment increase. The bill would also specify that it is the intent of the legislature that the money in the secondary road patrol and training fund be used as prescribed in the bill.

Further, the DSP is currently required to report annually to the legislature regarding all revenue received and disbursed under this section of the act; the bill would require the DOC to report likewise.

Senate Bill 808. The bill would amend the Michigan Vehicle Code (MCL 257.907) to specify that a civil fine ordered by a court to be paid for a civil infraction could not be waived unless the court costs associated with the civil infraction were also waived.

HOUSE COMMITTEE ACTION:

The changes to the Senate-passed versions of the bills are as follows:

Senate Bill 677. The House committee adopted a substitute bill that returned the administration of the secondary road patrol and training fund to the Department of State Police (the Senate-passed version would have required the Department of Management and Budget to administer the fund). The substitute bill also clarified that any money in the funds would be carried over from fiscal year to fiscal year to be used according to each fund's purpose, and clarified that reimbursements to counties from the jail reimbursement program fund would be done according to provisions in the Code of Criminal Procedure. Further, a committee amendment added a legislative intent specifying how money in the secondary road patrol and training fund should be used.

Senate Bill 808. The Senate-passed bill prohibited court costs associated with a civil infraction from being ordered to be paid unless a civil fine was also ordered to be paid. The House substitute instead

would prohibit a court-ordered civil fine from being waived unless the associated court costs were also waived.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, Senate Bill 677 would result in an increase in state and local governmental revenues. Based on the assumptions that 1) the bill's provisions would go into effect simultaneously with the provisions within Executive Order 2001 – 9; 2) that the baseline collection projection for the funds would grow by 2.5 percent annually; and 3) that the estimates reflect a 3-year phase-in period which is consistent with the implementation of the three existing \$5 citation assessments, the agency reports that the bill could generate \$8.8 million in increased revenue in fiscal year 2001-2002. This figure would increase to \$12.9 million in fiscal year 2002-2003, and to \$14 million in fiscal year 2003-2004. The increased revenue would be allocated equally between the secondary road patrol and training fund and the jail reimbursement program fund.

Senate Bill 808 is expected to have a minimal fiscal impact on the entities that receive revenue from traffic citations (fine revenue for violations under state statute is earmarked for local libraries; fine revenue for violations under local ordinance is earmarked for the local unit of government whose ordinance is violated and/or the court funding unit). (12-5-01)

ARGUMENTS:

For:

There is not enough revenue to support the projected budget for the 2001-2002 fiscal year. To operate within available revenue, budgets for every department had to be cut. For the state police budget, it was decided that funding for the secondary road patrol and traffic accident prevention program (SRP) could come from raising the assessment levied on civil fines for infractions of traffic laws (other than parking tickets) instead of by appropriations from the general fund. For the next year, \$1.5 million will still be appropriated from the general fund, but the remaining \$5 million or so that is still needed to adequately fund the program would come from the extra \$5 charged under the bill to people who violate a state or local traffic law. Simply put, the bill would not increase funding to the SRP, it would merely shift where the funding for the program comes from. Instead of being primarily funded by the general fund

(which all taxpayers pay into), the SRP would in effect receive most of its funding from the people who make the program necessary – those who violate traffic laws such as speed restrictions, stop signs, red lights, driving under the influence, and so on.

Similarly, Executive Order No. 2001 – 9 also reduced the appropriation to the county jail reimbursement program (CJRP) by close to half a million dollars. The CJRP allows a county to recoup approximately 10 percent of the costs to house a felon who otherwise would be sent to a state prison. Since fiscal year 1988-89 when the CJRP was initiated, this program has been maintained under the Department of Corrections budget acts. Now, however, due to the current recession, a new funding source must be identified. The bill would address the issue by creating a new assessment – in addition to the proposed \$10 assessment for the SRP and the current \$5 highway safety assessment – called the jail reimbursement assessment. Revenue from this assessment would be placed in a newly created fund and expended only to support the CJRP. Again, this is not a budget increase for the program, but merely a shift in funding source.

While not everyone agrees that budget shortfalls should be made up by increasing fees for various services, both of these programs relate to public safety. The secondary road patrol and traffic accident prevention program enables counties to hire more officers to patrol county parks and roads outside of municipal governmental jurisdiction, which in turn decreases crimes and accidents. The jail reimbursement program acts as an incentive for counties to locally house felons who otherwise would be sent to state prisons. Since the per diem cost for incarceration is cheaper in a county jail than a state prison, this program ultimately saves taxpayer dollars. To some, it is only right that those who choose to abuse the laws should be expected to pay extra to help fund the programs that protect the public from them.

For:

Senate Bill 677 would help clarify and preserve the historical approach for distribution of revenue from the secondary road patrol and traffic prevention fund. Historically, 90 percent of the funds have been used for secondary road patrol and traffic accident grants and the remaining 10 percent has been earmarked for the training to locals only program administered by the Commission on Law Enforcement Standards Act (MCOLES). The MCOLES program partially reimburses law enforcement agencies for the training costs of new law enforcement personnel. Some

believe that the inclusion of the legislative intent specifying the distribution of the money within the SRP fund will protect this historic distribution.

For:

Senate Bill 808 would correct an apparent problem being created by some judges who waive the civil fine connected with a traffic citation, but order and collect allowable court costs and assessments. Since this is a distortion of the intent of the law, the bill would discourage judges from collecting only “their” costs by prohibiting the waiver of a fine for a traffic citation unless the judge also waived the associated court costs and assessments.

POSITIONS:

There are no positions on the bill.

Analyst: S. Stutzky

■ 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.