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DEFINITION OF MAINTENANCE; TRANSPORTATION FUND

House Bill 5383

Sponsor: Rep. Thomas George

Committee: Transportation

Complete to 11-2-01

A SUMMARY OF HOUSE BILL 5383 AS INTRODUCED 11-1-01

House Bill 5383 would amend Public Act 51 of 1951, the Michigan Transportation Fund Act, to provide for a uniform definition of maintenance.

Currently under the law, the maintaining of state trunk line highways includes (but is not limited to) snow removal, street cleaning and drainage, seal coating, patching and ordinary repairs, erection and maintenance of traffic signs and markings, freeway lighting for traffic safety in cities and villages having a population of less than 30,000 people, and the trunk line share of the erection and maintenance of traffic signals. The law specifies that “maintaining” does not include street lighting, resurfacing, new curb and gutter structures for widening, and (beginning January 1, 1970) freeway lighting for traffic safety. House Bill 5383 would eliminate this provision.

The bill also would eliminate the definitions of “maintenance” and “maintaining” that appear in the act. (See Note, below.) Instead of the current definitions, House Bill 5383 would establish two categories of maintenance: the first, called “*maintenance*” would include two subcategories called a) “reactive maintenance,” and b) “routine maintenance”; and then also a second category (without subcategories) that would be called “*preventive maintenance*.” Further, the bill would define “preservation” (to include among other things both kinds of maintenance). Finally, the bill would define “road construction project” and differentiate it from all other categories. The definitions read as follows:

“Maintenance” means reactive maintenance, routine maintenance, or both reactive and routine maintenance. Maintenance does not include preventive maintenance, road construction projects, or the upgrading of aggregate surface roads to hard surface roads.

“Preventive maintenance” means a planned strategy of cost-effective treatments to an existing roadway system and its appurtenances that preserve the system for not less than five years, by retarding deterioration and maintaining functional condition without significantly increasing structural capacity. Preventive maintenance includes but is not limited to, one or more of the following: (i) pavement crack sealing; (ii) micro surfacing; (iii) chip sealing; (iv) concrete joint resealing; (v) concrete joint repair; (vi) filling shallow pavement cracks; (vii) patching concrete; (viii) shoulder resurfacing; (ix) concrete diamond grinding; (x) dowel bar retrofit; (xi) bituminous over lays of thickness less than one foot; (xii) restoration of drainage; (xiii) bridge crack sealing; (xiv) bridge joint repair; (xv) bridge seismic retrofit; (xvi) bridge scour counter-measures; (xvii) bridge painting; (xviii) pollution prevention; and, (xix) any of the above actions applied to a building owned by the department or a local road agency.

House Bill 5353 (11-2-01)

“Reactive maintenance” means action performed in response to uncontrollable events upon the condition of a highway, road, street, or bridge or the immediate environs within the right-of-way of the highway, road, street, or bridge. Reactive maintenance includes, but is not limited to, one or more of the following: (i) snow and ice removal; (ii) pothole patching; (iii) unplugging drain facilities; (iv) replacing damaged sign and pavement markings; (v) replacing damaged guardrails; (vi) repairing storm damage; (vii) replacing lighting; (viii) repair or replacement of damaged traffic signals; (ix) environmental clean-up; (x) emergency repairs; and (xi) emergency management of road closures that result from uncontrollable events.

“Routine maintenance” means actions performed on a regular or controllable basis in order to keep a highway, road, street, or bridge safe and fit for travel, actions performed to prevent deterioration where possible, and actions performed to return the appearance of the road surface and roadside to good condition. Routine maintenance includes, but is not limited to, one or more of the following: (i) cleaning streets and associated drainage; (ii) installing traffic signs and signals; (iii) mowing roadside; (iv) control of roadside brush and vegetation; (v) cleaning roadside; (vi) installing lighting; (vii) repairing sidewalks; (viii) grading shoulders; (ix) upgrading traffic signals; (x) environmental services; and (xi) building services.

“Preservation” means an activity undertaken to provide and maintain serviceable roadways. Preservation does not include a project that increases the capacity of a highway facility to accommodate that part of traffic having neither an origin nor destination within the local area, widening of more than a lane width, adding turn lanes or more than ½ mile in length, or improvements to buildings owned or operated by the department, a county road commission, a county department of public works, or a city or village. Preservation includes, but is not limited to, one or more of the following: (i) maintenance; (ii) preventive maintenance; (iii) grading; (iv) safety projects; (v) minor rehabilitation by multiple course resurfacing or by concrete restoration; and (vi) fuel storage tank upgrades.

“Road construction project” means a project that is not maintenance, preventive maintenance, or preservation. Road construction project includes, but is not limited to, one or more of the following: (i) reconstruction; (ii) resurfacing; (iii) restoration; (iv) rehabilitation; (v) new construction of highways, roads, streets, or bridges; (vi) any project that is eligible for federal funds.

Finally, House Bill 5383 specifies that a public road agency would be required to use this definition of “maintenance” to describe its duties in all contracts between the public road agency and a local unit of government for maintenance.

Note: The current definitions that would be eliminated by the bill read as follows: (a) “Maintenance” and maintaining means snow removal, street cleaning and drainage, seal coating, patching and ordinary repairs, erection and maintenance of traffic signs and markings, safety projects, and the preservation, reconstruction, resurfacing, restoration, and rehabilitation of highways roads, streets, and bridges. For the purposes of this section, maintenance and maintaining shall not be limited to the repair and replacement of a road but shall include maintaining the original intent of a construction project. If traffic patterns indicate that this intent is no longer being met, the department may expend funds to take corrective action and

continue to fulfill its obligation of maintaining the department's original objective for the construction project. However, maintenance and maintaining do not include projects which increase the capacity of a highway facility to accommodate that part of the traffic having neither origin nor destination within the local area. (b) "Maintenance" and "maintaining" include widening less than lane width, adding auxiliary turning lanes of ½ mile or less, adding auxiliary weaving, climbing, or speed change lanes, and correcting substandard intersections. (c) "Maintenance" and "maintaining" do not include the upgrading of aggregate surface roads to hard surface roads. (d) "Maintenance" and "maintaining" include the portion of the costs of the units of the department performing the functions assigned on January 1, 1983, to the bureau of highways expended for the purposes described in subdivision (a) and (b).

MCL 247.651b, 247.660c, 247.661, and 247.662.

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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.