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SFA**BILL ANALYSIS**

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House Bill 5383 (Substitute H-3 as passed by the House)
Sponsor: Representative Thomas George
House Committee: Transportation
Senate Committee: Transportation and Tourism

Date Completed: 5-20-02

CONTENT

The bill would amend the Michigan Transportation Fund law to provide a single definition of "maintenance". The bill also would define "capital preventive treatments", and would require governmental units to use the proposed definitions of these terms to describe their duties in all contracts with the State Transportation Department, county road commissions, and local units for maintenance and/or capital preventive treatments.

The law requires that the Michigan Department of Transportation (MDOT) bear the entire cost of maintaining all State trunk line highways, and that the money for these maintenance projects be appropriated from the State Trunk Line Fund. Currently, the law contains three separate definitions of "maintenance". The bill would eliminate the current definitions of the terms "maintenance" and "maintaining" and provide for one definition of the term with two categories called "reactive maintenance" and "routine maintenance". "Maintenance" would not include "capital preventive treatments". The bill also would define "preservation" to include, among other things, both maintenance and capital preventive treatments.

Proposed Definitions

"Maintenance" would mean reactive maintenance, routine maintenance, or both reactive and routine maintenance. Maintenance would not include capital preventative treatments, resurfacing, reconstruction, restoration, rehabilitation, or the upgrading of aggregate surface roads to hard surface roads.

- "Reactive maintenance" would mean action performed in response to uncontrollable events upon the condition of a highway, road, street, or bridge. Reactive maintenance would include, but not be limited to, one or more of the following: snow and ice removal; pothole patching; unplugging drain facilities; replacing damaged sign and pavement markings; replacing damaged guardrails; repairing storm damage; repair or replacement of damaged traffic signals; emergency environmental clean-up; and emergency management of road closures that result from uncontrollable events.
- "Routine maintenance" would mean actions performed on a regular or controllable basis in order to keep a highway, road, street, or bridge safe and fit for travel. Routine maintenance would include, but would not be limited to, one or more of the following: cleaning streets and associated drainage; installing traffic signs; mowing roadside; control of roadside brush and vegetation; cleaning roadside; repairing lighting; grading shoulders; and upgrading traffic signals.

"Capital preventative treatments" would mean a planned strategy of cost-effective treatments to an existing roadway system and its appurtenances that would preserve assets, by retarding deterioration and maintaining functional condition without significantly increasing structural capacity. Preventative maintenance would include, but not be limited to, one or more of the following: pavement crack sealing; micro surfacing; chip sealing; concrete joint resealing; concrete joint repair; filling shallow pavement cracks; patching concrete; shoulder resurfacing; concrete diamond grinding; dowel bar retrofit; bituminous overlays less than 1.5 inches thick; restoration of drainage; bridge crack sealing; bridge joint repair; bridge seismic retrofit; bridge scour countermeasures; bridge painting; pollution prevention; and new treatments as they may be developed.

"Preservation" would mean an activity undertaken to provide and maintain serviceable roadways. Preservation would not include new construction of highways, roads, streets, or bridges, a project that increased the capacity of a highway facility to accommodate that part of traffic having neither an origin nor a destination within the local area, widening of a lane width or more, adding turn lanes of more than one-half mile in length, or improvements to buildings owned or operated by MDOT, a county road commission, a county department of public works, or a city or village. Preservation would include, but not be limited to, one or more of the following: maintenance, preventive maintenance, grading, safety projects, reconstruction, resurfacing, restoration, rehabilitation, and any road or bridge project eligible for Federal highway funds.

Contracts

The bill would require a governmental unit to use the proposed definitions of "maintenance" and "capital preventive treatments" to describe its duties in all contracts between the governmental unit and MDOT, a county road commission, a city, a village, or a township for maintenance, capital preventive treatments, or both. A governmental unit currently performing the following maintenance services on local, county, and State roads would not be precluded from performing those services based on the bill's definition of "capital preventive treatments": pavement crack sealing, micro surfacing, chip sealing, concrete joint repair, filling shallow pavement cracks, patching concrete, restoration of drainage, bridge crack sealing, or bridge joint repair.

Proposed Deletions

Currently, for purposes of the law except Sections 11 and 12, the maintenance 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, the trunk line share of the erection and maintenance of traffic signals, and freeway lighting for traffic safety. It does not include street lighting, resurfacing, or new curb and gutter structures for widening. The bill would eliminate this provision.

The following definition, found in Section 11 (which establishes the State Trunk Line Fund and governs how the money deposited in the Fund is appropriate to MDOT, and for what purposes) would be deleted under the bill: "(a) 'Maintenance' and 'maintaining' mean 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...[M]aintenance 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 and 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...expended for the purposes described in subdivisions (a) and (b)."

The bill also would delete the following definition, found in Section 12 (which governs how the money distributed to county road commissions must be returned to county treasurers): "(a): 'Maintenance' and 'maintaining' mean snow removal, erection of traffic control devices and traffic signals and payment of monthly electrical costs for those signals, street cleaning and drainage, seal coating, patching and ordinary repairs, erection and maintenance of traffic signs and markings, safety projects which do not increase through traffic capacity, and the preservation, reconstruction, resurfacing, restoration, and rehabilitation of highways, roads, streets, and bridges. 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."

MCL 247.651b et al.

Legislative Analyst: Claire Layman

FISCAL IMPACT

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

Fiscal Analyst: Craig Thiel