Fiscal Analysis

PA 51 OF 1951 – TRANSFER OF MAJOR/LOCAL STREET FUNDS

HOUSE FISCAL AGENCY

Bill/Sponsor **SENATE BILL 334 (H-2) as reported ,** Sen. Michael Switalski

House Committee Appropriations

Analysis

Summary

SB 334 (H-2) would amend Section 13 of Public Act 51 of 1951 to make it easier for cities and villages to use their Michigan Transportation Fund major street funds on local street systems. Specifically, the bill allow cities and villages to transfer from their major street funds to local street funds without requiring additional expenditures on major streets or state trunklines from other sources of revenue. Transfers would no longer be limited to the amount of non-Michigan Transportation Fund revenue expended on major streets or state trunklines.

Background - Senate Bill 334 is a bill to amend Section 13 of Public Act 51 of 1951 (Act 51). Act 51 is the statute that governs the distribution of Michigan Transportation Fund (MTF) revenue. The primary recipients of MTF revenue are the State Trunkline Fund, the Comprehensive Transportation Fund, county road commissions, and cities and villages. Section 13 (MCL 247.663) of Act 51 governs the distribution of MTF revenue to cities and villages for municipal street programs. [1]

Section 13 provides for the distribution of MTF revenue to the state's 533 cities and villages based on a formula which recognizes population and street mileage. The current fiscal year transportation budget act (PA 162 of 2003) appropriates $355.4 million for this distribution – the actual amount of the distribution will vary depending on actual MTF revenues.

SB 334 would not change the MTF distribution to cities and villages – either in total or in the way MTF funds are distributed among the various cities and villages. SB 334 would lift some of the restrictions that Act 51 currently places on the way cities and villages can spend those MTF funds.

[1] MTF revenue is generated from motor fuel taxes, including the state's 19-cent per gallon gasoline excise tax, and vehicle registration fees. The MTF is a state-restricted fund; MTF fund sources are constitutionally dedicated for transportation.

In accordance with Act 51, cities and villages designate some of their streets as "major streets," with the remaining streets considered "local streets." [2] Seventy-five percent of the MTF distribution to cities and villages is based on population and "equivalent major [street] mileage." [3] These MTF major street funds are deposited to the credit of the city or village major street fund – a special revenue fund in municipal accounting systems. The remaining 25% of the MTF distribution to cities and villages is based on population and local street mileage. These MTF local street funds are credited to the city or village local street fund.

Section 13 also lists the permitted uses of the MTF distributions. Section 13(3) establishes the priority order for use of municipal major street funds, including "*for the maintenance, improvement, construction, reconstruction, acquisition, and extension of the* ***major*** *street system…*" Section 13(4) provides that local street funds shall be expended "*for the maintenance, improvement, construction, reconstruction, acquisition, and extension of the* ***local*** *street system…*"

Transfers Between Funds - Section 13(6) currently allows cities and villages to transfer major street funds to the local street system, but only up to an amount equal to other revenue – other than MTF revenue - expended on major streets or on state trunklines. [4] In order to transfer $1.0 million from the major street fund to the local street fund, a city would have to expend an additional $1.0 million in non-MTF revenue on major streets or state trunkline highways. Generally these additional local funds would come from the city general fund, special assessments, or transfers from other city funds. Federal aid for municipal street construction projects can also be counted as an expenditure for purposes of Section 13(6). [5]

Some municipalities have indicated that they have adequate funding to preserve their major streets, and have balances in their major street fund, but need additional funding in order to preserve the local street system. These cities and villages would like the ability to transfer from the major street fund to the local street fund without having to raise additional local funds.

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[2] As an example, the city of East Lansing has designated Coolidge, Harrison, Abbott, Hagadorn, Burcham, and Lake Lansing as major streets. The other public streets in East Lansing - other than Saginaw and Grand River, which are state trunklines - are considered local streets.

[3] The 75% distribution for major streets and 25% for local streets is after a 0.7% deduction/distribution for snow removal to those cities and villages that have higher than average winter maintenance costs.

[4] Subsection (6) is somewhat confusing in that it refers back to subsection (5) which is about local revenue for local street construction, and not local revenue for major streets or state trunklines. The requirement that major street fund transfers to the local street fund be matched with other local revenue expended for the major street system or state trunklines has been a part of Section 13 since 1957 amendments to Act 51 (PA 262 of 1957).

[5] In calendar year 2002, cities and villages transferred a total of $54.0 million from major street funds to the local street funds. This represents approximately 15.7% of the total FY 2001-02 MTF distribution to cities and villages of $345.0 million. At the same time cities and villages reported $127.9 million in additional local revenue transferred to the major street funds from other city funds (General Fund, Special Assessments, Capital Improvement Funds, Bond Funds). This figure does not include federal aid for local street construction projects.

SB 334 (H-2) would amend Section 13 of Act 51 to allow cities and villages to transfer from the major street fund to the local street fund without requiring additional expenditures on major streets or state trunklines from other sources of revenue. Transfers would no longer be limited to the amount of non-MTF revenue expended on major streets or state trunklines.

Note that the bill indicates that the transfer could only come from *surplus* major street funds – funds left over after all the major street spending priorities established in Section 13 (3) were met. In addition, the bill indicates that the funds transferred could not be used for [new] local street *construction*, only *preservation* as defined in Section 10c. The bill retains the current language of Section 13(5) which effectively limits MTF participation in [new] local street construction to 50% of construction cost.

The bill does provide certain additional requirements if a city or village transfers more than 25% of its annual MTF major street funds to the local street system. Specifically, the bill would require that the city or village adopt an asset management process for its major and local street systems. The bill would also require the city or village to adopt a resolution covering certain specific reporting requirements.

Impact on Funding for Local Street Construction – The bill indicates that major street funds transferred for use on the local street system may not be used for *construction* but may be used for *preservation* as defined in Section 10c. As a practical matter, this prohibition is not readily enforceable. Once major street funds were transferred to the local street fund, they would lose their identity as major street funds. [6]

Nonetheless, the bill would have no apparent direct impact on funding for local street construction (as opposed to preservation). The bill would retain the current requirement that MTF funds used for local street construction be matched by local revenues. This effectively limits MTF funding for new local street construction (as opposed to preservation) to 50% of project cost.

Other Changes in SB 334(H-2) – SB 334 (H-2) would also strike references in the section to "*maintenance*," "*improvement*," and "*reconstruction*" and would replace with the word "*preservation*." This language change is consistent with definitions in Section 10c of Act 51 which were added by PA 498 of 2002 (HB 5383). The bill also prohibits a city or village from transferring more than 25% of its annual MTF major street funding to the local street system unless it has adopted an asset management process for it's major and local street systems, and adopts a resolution which, among other things, indicates that the city or village is following an asset management process for its major and local street systems.

[6] The only way that it would be a city or village would be clearly be in violation of this restriction would be if, as a result of a transfer from the major street fund, the city or village was able to expend more on local street construction than it had received in MTF revenue for local streets.

Changes from Senate-passed bill – The proposed House substitute for SB 334 differs from the Senate-passed version primarily in clarification of language which was unclear in both current law and in the bill as introduced. In addition, the H-2 substitute creates a sunset, effectively December 31, 2008. Effective January 1, 2009 transfers from major to local street funds would again have to be matched from some other non-MTF revenue source.

The H-2 substitute also provides for a reporting requirement. The bill would require the Michigan Department of Transportation to report, on or before October 1, 2008, on city and village transfers from major to the local street funds during the period January 1, 2002 through June 30, 2008. The bill would also require the department to analyze the effect of this amendatory act on city and village major/local street fund transfers.

Fiscal Impact – SB 334 (H-2) would have no direct fiscal impact. It would not change the distribution of MTF revenue, or the way MTF revenue is distributed to particular cities and villages. It would allow municipalities to transfer major street funds for use on the local street system without raising additional non-MTF revenue for expenditure on the major street system or on state trunkline highways.

It is not clear how this change would affect local funding for municipal street programs. It is possible that the change will cause a reduction in local (non-MTF) revenue support for municipal street systems. However, the bill may make it more likely that cities and villages will expend major street fund balances, using those funds to preserve the local street system.

Act 51 of 1951, as originally enacted, permitted use of up to 25% of city or village major street fund MTF revenue on local streets, "*in the case of emergency or approval of the state highway commissioner*." PA 262 of 1957 amendments to Act 51 limited such transfers to the amount of other local revenues expended by the city or village on major streets or state trunkline highways. [7]

In addition, Section 13 of Act 51, as originally enacted, indicated that it was the intent of the legislature that MTF monies allocated to cities and villages for the maintenance and improvement of the local street system were the total responsibility of the state for local street system support, and that additional funds required for the support of city or village local streets had to come from local sources of revenue.

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[7] PA 262 of 1957 also limited MTF participation to 50% of local street construction.