

GOVERNMENT OWNED/LEASED MOTOR VEHICLES

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House Bills 5521-5523 (Substitutes H-2)

Sponsor: Rep. Robert Gosselin

Committee: Government Operations

First Analysis (2-17-06)

BRIEF SUMMARY: The bills would require governmental units to make information on government-owned or leased motor vehicles available to the public through an Internet website. A portion of funds made available to local governments and school districts would be withheld for failing to comply with the requirements of the bills.

FISCAL IMPACT: The bills would have an indeterminate fiscal impact on the state, local units of government, and school districts. The entities would incur costs for retrieving, tracking, maintaining the information, and posting the records online. Compliance costs would vary among local units of government and school districts, depending on the size of their motor vehicle fleets and the availability of information.

THE APPARENT PROBLEM:

Collectively, Michigan governmental entities own and lease thousands of motor vehicles for use in their daily operations, including many that are essential to the functions of government, such as police cars, school buses, and road maintenance vehicles, as well as vehicles provided to public officials for their own "personal" use. Some people criticize the practice of providing "personal" vehicles at considerable expense to taxpayers, particularly in an era of budget constraints, when it is vitally important for government to find ways to spend the taxpayers' money prudently.

Critics also say the use and maintenance of a motor vehicle fleet is an area of government spending that is susceptible to fraud, waste, and abuse. In recent years, news accounts have occasionally focused on suspected incidents of inappropriate use of government-owned vehicles. There have also been instances of public officials being taken to task in the media for using luxury vehicles at taxpayers' expense at the same time that essential governmental services were being reduced or eliminated.

Government spending watchdogs say that public access to information about government vehicle fleets is limited. When such information is available at all, they say, it often takes a request under the Freedom of Information Act for it to be released. Requests under FOIA, however, allow the governmental agency to assess the taxpayer for the necessary costs for complying with the request, which likely discourages requests for information, reducing public oversight efforts. Legislation has been introduced to require governmental entities to compile information on their motor vehicle fleets and make that information publicly available through an Internet website.

THE CONTENT OF THE BILLS:

Generally speaking, the bills would require local governments, school districts, and the Department of Management and Budget to make information on government-owned or leased motor vehicles available to the public through an Internet website. The bill would withhold money from local governments and school districts if they fail to comply with the reporting requirements. The bills were reported from the Committee on Government Operations at different times, resulting in different reporting requirements. Substitute bills are expected to make the reporting requirements consistent throughout each of the bills.

HOUSE BILL 5521

The bill would amend the State Revenue Sharing Act (MCL 141.920a) to require local governments (cities, villages, townships, and counties) to maintain and records containing the following information for government-owned or leased vehicles:

- Date of purchase or initial lease date and duration of lease.
- Purchase price or lease price.
- Date of sale, if the vehicle is subsequently sold.
- Year, make, and model of the vehicle.
- The state agency and supervisor responsible with charge of the vehicle.
- Authorized users, except when disclosure would jeopardize public safety or the safety of the authorized user.
- Mileage driven in the previous fiscal year.
- Total mileage.

The local unit of government would have to make the information available on its website by January 1 of each year. However, if the local unit does not maintain a website, such information would have to be posted on the website of the appropriate county. If a local unit failed to comply with the reporting requirements, the Department of Treasury would withhold five percent of "revenue sharing funds" or \$1,000 per month, whichever is less. If, by the end of the fiscal year, a local unit remains noncompliant, the funds withheld would be placed in escrow until the local unit complies.

Note: A Substitute H-3 is expected to clarify that that the bill would withhold "payments under the act for which the city, village, township, or county qualifies."

HOUSE BILL 5522

The bill would amend the State School Aid Act of 1979 (MCL 388.1794f) to require school districts and intermediate school districts (ISDs) to maintain records containing the generally the same information as required in HB 5521 for district-owned or leased motor vehicles. (There would be no "public safety" exception for reporting the vehicle's authorized user. Also, the bill does not require school districts to report the purchase or lease price of each vehicle.)

School districts would have to report such information to the appropriate ISD by November 1 of each year, and the ISD would have to post that information, along with its own records, on its website by January 1 of each year. If a school district or ISD failed to comply with the reporting requirements, the Department of Education would withhold five percent of the district's funding under the act. If, by the end of the fiscal year, a district remains noncompliant, the funds withheld would be placed in escrow until the district complies.

Note: A Substitute H-3 is expected require districts to also report the purchase or lease price of each vehicle.

HOUSE BILL 5523

The bill would amend the Management and Budget Act (MCL 18.1213) to require the Department of Management and Budget to maintain records on motor vehicles owned or leased by state agencies and make such information available on a website by January 1 of each year. The information would generally be the same as required under HB 5521.

Note: A Substitute H-3 is expected to require the department to also report the purchase or lease price of each vehicle.

BACKGROUND INFORMATION:

Public Act 327 of 2004, the FY 2005 appropriations act for the Department of Management and Budget (and numerous other departments), required the department to submit a quarterly report to the legislature on its efforts to reduce the size of the state's motor vehicle fleet and expenditures for vehicle travel services. The most recent report, issued in November 2005, notes that at the end of FY 2005, there were 7,517 in the state's permanent leased fleet. This number does not include an additional 1,471 vehicles (including 742 passenger vehicles) owned by the Department of Transportation, and 1,390 vehicles owned by the Department of Natural Resources. It should be noted that these figures include passenger vehicles and light-duty trucks, and also off-road vehicles, heavy road maintenance vehicles, and other non-propelled vehicles. A copy of the Fleet Services Report is available at through the state's website at www.michigan.gov/documents/November_28_2005_143322_7.pdf.

ARGUMENTS:

For:

The aim of the bills is to make government practices more transparent by requiring that information regarding government-owned motor vehicles be compiled and placed online. Critics say that other than the occasional newspaper exposé detailing apparent abuses, the public oversight of government spending on motor vehicle fleets appears to be rather limited. The information required by the bill can be beneficial to taxpayers and public officials, particularly in understanding how government funding is used and can be prioritized. As governmental entities across the state continue to deal with limited

revenues and restricted budgets, complying with the bill should make government more cognizant of the tax dollars spent on motor vehicles, which some people consider an extravagance and an unnecessary "perk" for public officials when compared with core governmental functions.

Against:

It is not entirely clear why the bill is necessary. Officials representing local governments and school districts testified that the information required to be posted on-line is rarely requested by taxpayers. Moreover, this information is already available under the Freedom of Information Act.

Response:

The Freedom of Information Act permits governmental entities to charge citizens when complying with a FOIA request. These costs often discourage individuals from requesting this information.

Against:

There is great concern that the compliance costs for the bills could be significant, particularly for the state and larger governmental entities. The state, through the departments of Management and Budget, Transportation, and Natural Resources manages a fleet of nearly 10,000 vehicles, and the largest local units may maintain a fleet of several hundred vehicles. Retrieving, preparing, and maintaining the required information on each vehicle would be quite difficult and costly.

Further, it's not clear how, as a practical matter, certain information would be reported. For instance, the Department of Management and Budget maintains five motor pools in the state, and assigns vehicles available from those pools on a temporary basis. These vehicles have a multitude of "authorized users" from throughout state government. Would the department really be required to report every individual who drove a particular vehicle? In addition, it's not uncommon for communities to own several older vehicles, for which records on the purchase date and price may no longer be available. Such information, if it were available at all, would likely be of little utility anyway.

Against:

House Bill 5521 requires the state to withhold five percent of statutory revenue sharing payments, or \$1,000 per month, whichever is less, if a local unit fails to comply with the reporting requirements. This is problematic because not every local governmental unit receives statutory revenue sharing payments. The bill doesn't treat local units equally, nor does it appear to include a mechanism to ensure compliance by communities that don't receive statutory revenue sharing and, as a consequence, have no financial incentive to comply.

Response:

Reportedly, the intent is to require the state to withhold \$1,000 per month for those communities that don't comply and that don't receive statutory revenue sharing, but the bill's language does not make that clear. As currently drafted, the bill doesn't appear to impose a financial incentive to comply with the reporting requirements if a community does not receive statutory revenue sharing payments. [The bill requires the state to

withhold five percent of revenue sharing payments (\$0), or \$1,000, whichever is less, and the lesser of those two amounts is always \$0. If the bill is construed to require the state to withhold \$1,000 per month, it's not clear what sort of funding could be withheld.]

Against:

There is concern that House Bill 5521 might trigger the provision of the Headlee Amendment that prohibits the state from imposing new activities or services on local governments beyond what was required by law existing at the time of ratification (1978), unless the state also pays for the necessary increased costs. (See Article IX, Section 29 of the state Constitution).

Response:

A cursory review of applicable statutes and case law suggests that there might be no Headlee implications. While the factual circumstances are different, the Court of Appeals held in *Adair v. State of Michigan*, 260 Mich App 691 (2002) that a requirement that school districts report certain data to the Center for Educational Performance and Information did not constitute a new or increased activity or service for which an appropriation would have been required under the Headlee Amendment. The original Revenue Sharing Act, which was enacted in 1971 and predates the ratification of the Headlee Amendment, included a requirement that local units report certain information to the Department of Treasury as a condition of receiving payments under the act. The current act includes a provision permitting the state treasurer to withhold payments if the local government fails to take certain actions. Also, one could reasonably argue that the reporting provision of the bill is not an actual imposition of a new activity per se, but rather is condition for receiving funding under the act, similar in concept to boilerplate provisions in the several appropriations acts.

POSITIONS:

Taxpayer's United supports the bills. (2-7-06)

The Department of Management and Budget opposes the bills. (2-7-06)

The Department of Treasury opposes House Bill 5521. (2-14-06)

The Department of Education opposes House Bill 5522. (2-7-06)

The Michigan Association of Counties opposes House Bill 5521. (2-7-06)

The Michigan Municipal League opposes House Bill 5521. (2-7-06)

The Michigan Townships Association opposes House Bill 5521. (2-7-06)

The County Road Association of Michigan opposes House Bill 5521. (2-7-06)

The Grand Valley Metro Council opposes House Bill 5521. (2-7-06)

Ottawa County opposes House Bill 5521. (2-14-06)

The City of Grand Rapids opposes House Bill 5521. (2-14-06)

Macomb County opposes the bills. (2-7-06)

The AFT-Michigan opposes House Bill 5522. (2-7-06)

The Michigan Association of School Boards opposes House Bill 5522. (2-7-06)

The Michigan Association of School Administrators opposes House Bill 5522. (2-7-06)

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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.