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BILL ANALYSIS

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House Bill 4555 (Substitute S-2 as reported)
Sponsor: Representative Tom Pearce
House Committee: Transportation
Senate Committee: Commerce and Labor

Date Completed: 7-11-05

RATIONALE

The Michigan Transportation Fund (MTF) law provides that at least 1% of the money allocated from the MTF to the State Trunkline Fund and to counties, cities, and villages must be spent for nonmotorized transportation services and facilities. The dedication of funding for such purposes is consistent with the final report of the bipartisan Michigan Land Use Leadership Council, which included in the Council's vision statement that land use in Michigan is about walkable communities where community design promotes healthy lifestyles and communities where green spaces are linked via trails and pathways. The MTF law's detail on what is considered to be a qualified nonmotorized facility, however, does not mention sidewalks but includes the paving of unpaved roads. In addition, a 1973 advisory memorandum from the Attorney General's office held that nonmotorized transportation funds may not be used for sidewalks. Some people believe that adding or preserving sidewalks should be identified in statute as a legitimate use of the nonmotorized transportation funds and that money designated for nonmotorized transportation should not be allowed to be used for paving road surfaces.

CONTENT

The bill would amend the Michigan Transportation Fund law to do all of the following:

- Specify that the funds required to be spent for nonmotorized transportation services and facilities would have to be used for**

construction, improvement, or preservation of those services and facilities.

- Include the addition or preservation of a sidewalk in a city or village as a qualified nonmotorized facility.**
- Remove the paving of unpaved roads from improvements that are considered qualified nonmotorized facilities.**

The MTF law specifies that transportation purposes provided for in the statute include provisions for facilities and services for nonmotorized transportation, including bicycling. The law requires at least 1% of the funds allocated from the MTF to be used for nonmotorized transportation services and facilities. The bill specifies that those funds would have to be used for "construction, improvement, or preservation of" nonmotorized transportation services and facilities.

Under the law, an improvement in a road, street, or highway that facilitates nonmotorized transportation by the paving of unpaved road surfaces and shoulders, widening of lanes, or any other appropriate measure, is considered to be a qualified nonmotorized facility. The bill would delete the reference to road "surfaces", while retaining the reference to road "shoulders". Also, the addition or improvement of a sidewalk in a city or village would be considered a qualified nonmotorized facility, under the bill.

MCL 247.660k

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

As recognized by the Michigan Land Use Leadership Council, the development and maintenance of sidewalks is an important part of community development. The Council included creating walkable neighborhoods as one of the growth tenets it used for many of the recommendations contained in its final report and, in chapter 4 of the report, dealing with urban revitalization, the Council recognized the “desirability and benefits of walkable and rollable...urban cores and neighborhoods”. Allowing the use of nonmotorized MTF funds for the addition or preservation of sidewalks in cities and villages, then, would be consistent with the Council’s recommendations and could contribute to the redevelopment of core cities and help enhance the livability of Michigan communities.

Supporting Argument

Nonmotorized transportation money from the MTF has been withheld from sidewalks because of a 1973 advisory memorandum from the Attorney General. That memorandum held that both motorized and nonmotorized transportation are vehicular in nature and refer to movement by a conveyance, while nonvehicular transportation relates to travel by a person’s own physical means. Examples of nonmotorized vehicular transportation would include travel by bicycle or horseback, while walking would be nonvehicular (rather than nonmotorized) transportation. The memorandum concluded, “A sidewalk is not a path primarily built for non-motorized vehicles. It is a facility primarily built for non-vehicular travel.” The MTF law, however, does not distinguish between vehicular and nonvehicular transportation, and many people would consider walking to be a form of nonmotorized transport, even though it does not involve a conveyance. In addition, both sidewalks and bike paths typically are multiuse facilities frequented by both pedestrians and bicyclists, yet the MTF nonmotorized funds can be used for bike paths but not sidewalks. According to a Michigan Department of Transportation (MDOT) official, the Department believes

that the addition or preservation of sidewalks should be included in MTF nonmotorized funding, and the bill would authorize that use of the 1% dedicated to nonmotorized transportation services and facilities.

Response: The bill should specifically exclude sidewalks in private developments from eligibility for MTF nonmotorized funds. The money should be used only for facilities that are public property open to public use.

Supporting Argument

The MTF law includes the paving of unpaved road surfaces among the improvements that are considered qualified nonmotorized facilities. According to testimony before the Senate Commerce and Labor Committee, many counties have used their entire allotment of nonmotorized transportation money for paving unpaved county roads, regardless of whether that use was conducive to nonmotorized transport. The law should give priority to projects that are truly for nonmotorized uses. By deleting the paving of unpaved roads, but retaining the paving of unpaved shoulders and the widening of lanes, and including the addition or preservation of sidewalks, the bill would ensure that nonmotorized MTF money was dedicated to legitimate nonmotorized transportation uses. These changes also would contribute to making Michigan roads safer for and more accommodating of bicyclists.

Supporting Argument

The MTF law requires that 1% of the funds allocated from the MTF be spent for nonmotorized transportation services and facilities. The bill would add specificity by requiring the expenditure of the funds for construction, improvement, or preservation of those services and facilities.

Opposing Argument

Including the addition or preservation of sidewalks as a qualified nonmotorized facility could draw money away from projects such as bike paths, paved shoulders, bike lanes on roads, and wider right lanes that traditionally have been funded by the 1% of the MTF dedicated to nonmotorized uses.

Response: The decision of which nonmotorized facilities or services are to be funded is left to the local units of government awarded the nonmotorized transport money. Some could choose to use

it on sidewalks, while others may prefer other eligible projects.

Opposing Argument

The MTF law requires MDOT, or a county, city, or village receiving money from the MTF, annually to prepare and submit a five-year program for the improvement of qualified nonmotorized facilities. A similar bill (Senate Bill 338 (S-1)) that was adopted but not reported by the Senate Commerce and Labor Committee, would require that a five-year program also address the preservation of those facilities; that the program be included with the Asset Management Plan submittal required under the MTF law; and that the five-year program include a specific description of planned expenditures. Including those provisions in House Bill 4555 (S-2) would ensure that the State and local units specified on the record how they would use the MTF nonmotorized funds, and would facilitate coordinated efforts by those entities.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government. The bill would require that a portion of the MTF funds allocated to the State Trunkline Fund and local road agencies be used for construction, improvement, or preservation of nonmotorized transportation services and facilities. This requirement would add specificity to the use of MTF funds for nonmotorized transportation. According to the Department, for fiscal year 2002-03, counties spent about \$54.0 million and cities and villages spent about \$158.0 million for this purpose. The Department spent about \$6.5 million in fiscal year 2003-04.

Fiscal Analyst: Craig Thiel

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.