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BILL ANALYSIS

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Senate Bill 862 (as reported without amendment)
Senate Bill 863 (Substitute S-3 as reported)
Sponsor: Senator Jud Gilbert, II
Committee: Transportation

Date Completed: 1-11-10

RATIONALE

According to the Michigan Department of Transportation's October 30, 2009, report on the safety of 4,398 State highway bridges, 435 are classified as "structurally deficient", meaning that they may require rehabilitation or replacement at some time in the future. Another 878 bridges are classified as "functionally obsolete", which means that their design is outdated and may require modernization in the future. If additional funding is not made available, however, the Department is predicting that its Bridge Program will be reduced by $476 million from 2011 to 2014, according to the November 2009 preliminary draft of the Department's Five-Year Transportation Program for fiscal years 2010 to 2014. Of this reduction, $376 million will come from the Bridge Replacement and Rehabilitation Program, and the balance will come from Bridge Preventive Maintenance Program. As a result, if the reduction is made, 290 bridges will not receive needed repairs and approximately 285 bridges will not be maintained, according to the draft report.

In order to generate revenue for bridge repair and maintenance, some people believe that the road tax paid by interstate motor carriers should be increased. Currently, under the Motor Carrier Fuel Tax Act, these carriers must pay a tax of 15 cents per gallon on diesel fuel consumed on highways in Michigan. It has been suggested that this tax be increased to 19 cents per gallon, which is the rate imposed on gasoline sold in this State.

CONTENT

Senate Bills 862 and 863 (S-3) would amend the Motor Carrier Fuel Tax Act and the Michigan Transportation Fund law, respectively, to do the following:

-- **Increase the road tax paid by a licensed motor carrier from 15 to 19 cents per gallon.**
-- **Dedicate two cents of the road tax to the State Trunk Line Fund for the repair of State bridges, and two cents to the Local Bridge Fund.**
-- **Prohibit a local highway authority from receiving revenue from the two-cent increase if it offers full-time fringe benefits to employees who work less than 35 hours a week.**
-- **Require the Michigan Department of Transportation to study and report on what impact motor carrier weight limits could have on roads.**

Senate Bill 863 (S-3) is tie-barred to Senate Bill 862.

Senate Bill 862

The Motor Carrier Fuel Tax Act requires a licensed motor carrier to pay a road tax on motor fuel consumed in qualified commercial motor vehicles on highways in the State. (A "motor carrier" is a person who operates a qualified commercial motor vehicle on a public road or highway of this State and at least one other state or Canadian province, or who operates a qualified commercial motor vehicle on a public road or highway in this State and is licensed under the

International Fuel Tax Agreement. "Motor fuel" means diesel fuel. "Qualified commercial motor vehicle" does not include a recreational vehicle; a road tractor, truck, or truck tractor used exclusively in this State; a road tractor, truck, or truck tractor owned by a farmer and used in connection with his or her farming operation and not used for hire; a school bus; a bus defined and certificated under the Motor Bus Transportation Act; or a bus operated by a public transit agency described in the definition.)

The current tax rate is 15 cents per gallon. The bill would increase that to 19 cents per gallon.

The bill also would delete provisions under which the tax was to be calculated at a rate of 12 cents per gallon for diesel fuel containing at least 5% biodiesel, if the Legislature appropriated to the Michigan Transportation Fund the amount that was not collected due to the rate differential.

Senate Bill 863 (S-3)

The Michigan Transportation Fund law requires revenue from one cent of the 19-cent per gallon gasoline tax levied under the Motor Fuel Tax Act to be appropriated to the State Trunk Line Fund for the repair of State bridges.

The bill would require that revenue from two cents of the motor carrier fuel tax also be appropriated to the State Trunk Line Fund for the repair of State bridges. Revenue from an additional two cents of the tax would have to be appropriated to the Local Bridge Fund.

In order for a highway authority to receive revenue distributed to the Local Bridge Fund from an increase in the motor carrier fuel tax rate, the authority could not offer full-time fringe benefits to employees who work less than 35 hours a week.

The bill would require the Michigan Department of Transportation (MDOT) to conduct a study on what, if any, impact weight limits mandated under law for motor carriers in this State could have on the roads of the State. By July 1, 2010, MDOT would have to submit to the Legislature a written report on the findings of its study.

MCL 207.212 (S.B. 862)
247.660 (S.B. 863)

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

The Michigan Department of Transportation is in the midst of a funding crisis, generated largely by State revenue declines, but also by uncertainty about Federal funding, increased construction costs, and debt service on bonds. As noted above, approximately 575 State highway bridges will not receive needed repairs or maintenance between 2011 and 2014 if additional funding is not generated. This figure does not reflect the number of local bridges that will go unrepaired or unmaintained without new revenue.

These bills would begin to address the problem by increasing the per-gallon road tax paid by interstate motor carriers from 15 cents to 19 cents, and dedicating half of the increase to repair of State bridges and half to the Local Bridge Fund. The four-cent increase also would help achieve parity in taxation, since 19 cents per gallon is the rate of tax imposed on motorists buying gas in the State.

Supporting Argument

Under Senate Bill 863 (S-3), local authorities that provide full-time fringe benefits to part-time workers could not receive Local Bridge Fund revenue from the increased diesel tax rate. Evidently, some county road commissions provide health insurance to their commissioners, who are not full-time employees. If funding is inadequate to maintain and repair roads and bridges, it should not be used for that purpose.

Response: The bill's 35-hour-per-week threshold would be very high and could result in the denial of benefits to many road commission employees who work fewer hours, including those whose hours are reduced due to mandatory or voluntary furlough days. Compared with road repair costs, the amount a road commission could save from discontinuing benefits would be negligible. Furthermore, the incentive to deny fringe benefits would be misplaced because there is no connection between the payment of benefits and revenue in the

Local Bridge Fund, which can be used only for the local bridge program.

Opposing Argument
Michigan's combined diesel and sales taxes already put the State and its businesses at a competitive disadvantage. According to the Michigan Petroleum Association and the Michigan Association of Convenience Stores, over 1 million customer visits are lost each year to businesses in bordering states that have lower tax rates. The loss of customers means the sale of fewer products, the hiring of fewer workers, and the payment of less in payroll taxes, property taxes, and sales tax. Raising the diesel tax on interstate truckers not only would exacerbate this, but also would result in higher consumer prices on the products they transport.

Response: Well maintained roadways, including safe bridges, are essential to businesses throughout the State, including those in the agricultural and tourism industries—two vital sectors of Michigan's struggling economy. In addition, without adequate revenue, the State will be unable to match Federal funding and will lose road construction jobs. Poorly maintained roads and highways also contribute to congestion and accidents, and represent costs to all motorists in terms of property damage, vehicle maintenance, medical expenses, lost productivity, and wasted fuel.

Opposing Argument
Diesel-powered semi-truck operators currently pay about three times as much in taxes as drivers of gas-powered cars pay, because of the trucks' lower mile-per-gallon fuel efficiency. Rather than achieving parity, the bills would heighten this discrepancy.

Response: Compared with automobiles, heavy trucks do more damage to pavement surfaces, resulting in the need for greater repair and maintenance.

Opposing Argument
The State must take a comprehensive approach to the issue of road and bridge funding. Attempting to fix the problem in a piecemeal fashion would not be effective.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills would increase State revenue by approximately $5.3 million per year and earmark the majority of that increase for repairing bridges in Michigan. The bills would increase the tax rate applied to motor carriers taxed under the Motor Carrier Fuel Tax Act, which primarily applies to interstate trucking activity, but would not alter the rate (which would remain at 15 cents per gallon for diesel fuel) under the Motor Fuel Tax Act, which primarily applies to intrastate trucking activity.

The study and report required under Senate Bill 863 (S-3) would increase State expenditures by an unknown amount. Because the bill does not appropriate additional funds for these activities, any costs would need to be funded by other departmental reductions.

Fiscal Analyst: David Zin