Legislative Analysis

Mary Ann Cleary, Director
Phone: (517) 373-8080
http://www.house.mi.gov/hfa

PUBLIC ACT 51: DISTRIBUTION OF MTF REVENUE & CREATION OF COMMERCIAL CORRIDOR FUND

House Bill 5303
Sponsor: Rep. Alberta Tinsley Talabi
Committee: Transportation

Complete to 2-15-12

A SUMMARY OF HOUSE BILL 5303 AS INTRODUCED 1-26-12

House Bill 5303 would amend two sections of Public Act 51 of 1951. The bill would amend Section 10c to add two new defined terms to the act, "*Federal functional class*," and "*local road agency*." The bill would amend Section 12, the section which currently directs the distribution of Michigan Transportation Fund (MTF) revenue to county road commissions.

The bill would also add three new sections to the act. Section 10q would create a new Commercial Corridor Fund. Section 10r would direct the distribution from the Commercial Corridor Fund to local road agencies.

Section 10s would mandate, under some circumstances, the transfer of the municipal street system to the county road commission for municipalities receiving less than $50,000 from the MTF in "fiscal year 2012."

DETAILED ANALYSIS:

MTF Distribution to County Road Commissions (Section 12)

Section 10 of 1951 PA 51 (Act 51) currently directs the distribution of MTF revenue to various state transportation funds and program accounts, as well as to county road commissions, and cities and villages in the aggregate. The amount distributed to county road commissions in FY 2010-11 was $590.5 million.

The gross MTF distribution to county road commissions under Section 10 is currently distributed among the 83 road commissions (including charter counties functioning as the road commissions) by the Section 12 formula, summarized as follows:

1.00% by snow formula
9.90% by urban road mileage, for urban Primary and Local roads
47.90% by resident vehicle registrations, for Primary roads
6.39% by Primary road mileage, for Primary roads
9.58% equally to each of the 83 counties, for Primary roads
16.41% by Local-road mileage, for Local roads
8.84% by rural population, for Local roads

Section 12 also provides for an additional $10,000 to each county road commission that had employed or retained a licensed professional engineer in the previous year.

The distribution of MTF revenue to county road commissions under Section 12, subsections (2) through (7), is directed for use on either the county Primary road system or the county Local road system. Nonetheless, Section 12(9) allows the county road commission to transfer funds between the county Primary road system and the county Local road system under certain circumstances.

House Bill 5303 would amend Section 12(3) which currently provides for a set-aside of 1% of the MTF for distribution to counties for snow removal purposes as provided under Section 12a. Section 12a provides for the formula distribution of these snow removal funds to counties with high snow removal costs. There are currently 53 county road commissions that receive payments under this formula, primarily counties in Northern Michigan and West Michigan. A total of $8.2 million in snow payments were distributed in FY 2010-11. The bill would amend Section 12(3) to sunset MTF snow fund set-aside on September 30, 2013.

Note that there would be a 1% snow payment set-aside under the Commercial Corridor Fund, established in Section 10r, described further below.

House Bill 5303 would strike current subsection (17), which prescribes how county road commissions may use federal funds distributed for the use of county road commissions. The section does not appear to have any relation to the distribution of MTF revenue, and striking the language would have no apparent fiscal impact.

Other amendments to Section 12 appear to be primarily technical.

Commercial Corridor Fund (Section 10q)

Section 10 of Act 51 established the MTF and directs the distribution of MTF revenue. MTF revenue, approximately $1.8 billion in FY 2010-11, is derived primarily from motor fuel taxes, and vehicle registration taxes – taxes that are constitutionally dedicated for transportation. Section 10 directs the distribution of MTF revenue to other state transportation funds, to special program accounts, and to county road commissions, cities, and village.

House Bill 5303 would add new Section 10q to create a new Commercial Corridor Fund (CCF), beginning October 1, 2012. Section 10q(1) directs that fuel tax revenue received under the Motor Fuel Tax Act, and vehicle registration tax revenue received under the Sections 801 through 810 of the Michigan Vehicle Code, be credited to the CCF. This subsection parallels current Section 10, which earmarks motor fuel taxes and vehicle registration tax revenue for the MTF.

Section 10r differs from Section 10 in that Section 10q does not exclude Truck Safety Fund fee revenue from the CCF, and Section 10q does not prohibit the deposit of state General Fund revenue in the CCF.

Section 10q also differs from Section 10 in that it does not include money from the Motor Carrier Act, 1933 PA 254, in CCF. This exclusion is appropriate in that the Motor Carrier Act imposes certain regulatory fees on certain of motor carriers. These fees are not constitutionally dedicated for transportation and are not currently credited to the MTF. However, both Section 10 and proposed Section 10q should include revenue from the Motor Carrier Fuel Tax Act, 1980 PA 119, which is constitutionally dedicated for transportation.

Following the current language of Section 10, Section 10q directs the Legislature to appropriate funds for the necessary expenses incurred in the administration and enforcement of the Motor Fuel Tax Act, Sections 801 through 810 of the Michigan Vehicle Code, and the Motor Carrier Act. As with the current reference in Section 10, the reference in proposed Section 10q is an anachronism in that the Motor Carrier Act provides no revenue to the MTF, and administration of the Motor Carrier Act is not a transportation-related function. Both the language designating revenue sources, and the language directing reimbursement of necessary expenses, should reference the Motor Carrier Fuel Tax Act.

Note that a companion bill, House Bill 5298, would amend the Motor Fuel Tax Act to change the earmark of motor fuel tax revenue from the MTF to the CCF on the effective date of that bill's enactment. Companion bill House Bill 5300 would amend the Michigan Vehicle Code to change the earmark of motor fuel tax revenue from the MTF to the CCF over a period of eight years, starting in FY 2012-13. House Bill 5303 is tie-barred to House Bill 5300, but not to House Bill 5298.

Section 10q would direct the distribution of CCF revenue as follows:

> 10% to the Comprehensive Transportation Fund.
>
> *Beginning October 1, 2020*, $40.275 million to the Transportation Economic Development Fund (TEDF).
>
> The balance to the CCF, of which 55% goes to the State Trunkline Fund (STF) and 45% to the local road agencies of the state.

Section 10q distribution to the CCF would not include several programmatic earmarks currently made from the MTF under Section 10, including earmarks to the rail grade crossing account, for local bridge program debt service, for state and local bridges, and for STF debt service.

The phrase "*beginning October 1, 2010*" appears to apply only to the distribution of funds from the CCF to the TEDF. It is not clear how funds would be distributed during the eight-year transition from the MTF distribution under Section 10 to the CCF distribution under Section 10q.

The bill would add a new definition in Section 10c of the act of "local road agency" to mean a county road commission, a county that had assumed the duties of a county road commission, a city or village receiving $50,000 or more from the Michigan

Transportation Fund in FY 2011-12, or a regional road agency established by interlocal agreement. In addition, a city or village which had received less than $50,000 in MTF funding in FY 2011-12 could be defined as a local road agency if the city or village, by a vote of its citizens at a general election, affirmatively elected to retain jurisdiction of its municipal streets, and complied with the certification requirements of Section 18j of Act 51, in companion bill, House Bill 5302, to which House Bill 5303 is tie-barred.

Distribution to Local Road Agencies (Section 10r)

Section 12 of Act 51 currently directs the distribution of MTF revenue among the 83 road commissions based on the factors shown above. The most significant factors under the current distribution are county resident vehicle registrations, mileage, and rural population. In addition, Section 13 of Act 51 currently provides for the distribution of MTF revenue among 533 cities and villages. The most significant factors in the allocation to cities and villages are population and street mileage.

Section 10r would direct the distribution of CCF revenue to local road agencies, both county road commissions and eligible cities and villages, using a formula based in part on vehicle miles travelled, and in part on centerline mileage, by functional classification. The bill defines *functional classification* as a class or group of roads based on the character of traffic service the road provides. Functional classification is a uniform national system of classifying roads established in federal law, the Intermodal Surface Transportation Efficiency Act of 1991.

Subsequent legislative analyses of this bill will provide additional description of the proposed allocation method to local road agencies.

Municipal Streets – Transfer to County Road Commissions (Section 10s)

Under the new definition in proposed Section 10c, "local road agency" would mean a county road commission, a county that had assumed the duties of a county road commission, a city or village receiving $50,000 or more from the Michigan Transportation Fund in FY 2011-12, or a regional road agency established by interlocal agreement. A city or village which had received less than $50,000 in MTF funding in FY 2011-12 could be defined as a local road agency if the city or village, by a vote of its citizens at a general election, affirmatively elected to retain jurisdiction of its municipal streets, and complied with the certification requirements of Section 18j of Act 51 which would be added by companion bill, House Bill 5303.

Section 10s of the bill would direct that, beginning January 1, 2015, for cities or villages not meeting the definition of "local road agency," the municipal streets would be transferred to the county road commission of the county in which the municipality is located.

To the extent that the current MTF distribution to cities is driven primarily by population, the use of a FY 2011-12 MTF distribution of less than $50,000 is a proxy for small population city or village; cities and villages receiving less than $50,000 from the MTF generally have a population of 500 or less. We estimate that approximately 100 cities and villages will receive less than $50,000 from the MTF in FY 2011-12.

FISCAL IMPACT:

House Bill 5303 is tie-barred to House Bill 5300, a bill to amend the Michigan Vehicle Code. House Bill 5300 would both increase vehicle registration taxes, and change the distribution of registration tax revenue over period of eight years – beginning in FY 2012-13 – from the MTF to the CCF. Registration tax revenue currently generates approximately $870 million for credit to the MTF. According to a briefing paper in support of the bill, House Bill 5300 would generate an additional $500 million in transportation revenue.

In addition, a companion bill, House Bill 5298, would amend the Motor Fuel Tax Act. Among other things, House Bill 5298 would change the distribution of motor fuel tax revenue from the MTF to the CCF on the effective date of the bill's enactment. House Bill 5303 is not tie-barred to House Bill 5298.

House Bill 5303 does not repeal the current MTF distribution formulas in Section 10, Section 12, or Section 13. MTF revenue would continue to be distributed under the current formulas, even as revenue shifted from the MTF to the CCF. In effect, there would two transportation funds, and two distribution formulas, operating simultaneously during the eight-year transition period.

The impact of House Bill 5303 on state and local transportation funding cannot be readily estimated at this time.

Fiscal Analyst: William E. Hamilton