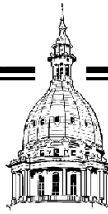




Senate Fiscal Agency
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BILL



ANALYSIS

Telephone: (517) 373-5383
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House Bill 4610 (Substitute S-1)

(Senate-passed version)

House Bill 4611 (Substitute S-1)

Sponsor: Representative Aaron Miller (H.B. 4610)

Representative Edward Canfield (H.B. 4611)

House Committee: Roads and Economic Development

Senate Committee: Government Operations

Date Completed: 6-30-15

CONTENT

House Bill 4610 (S-1) would amend Chapter IV of Public Act 283 of 1909 (the county road law) to do the following:

- **Specify that if a township, or townships, contributed 50% or more to the cost of a road project and met other conditions, the township board, or boards, could require the county road commission to use competitive bidding to contract for the work on that project.**
- **Require a county road commission, if required to bid a project, to use the responsive and reasonable best value bidder process, and award the contract to a responsive and reasonable best value bidder.**
- **Specify that if a township, or townships, contributed 50% or more to the cost of a "very low-volume local road project", the work would have to comply with the standards adopted by the American Association of State Highway and Transportation Officials for very low-volume local road projects.**

House Bill 4611 (S-1) would amend Public Act 51 of 1951 (the Michigan Transportation Fund law) to require competitive bidding on all local road agency projects for construction or preservation, except maintenance, costing more than \$100,000, unless an agency found that some other method was in the public interest; and require an agency to report its findings before work was begun.

The bills are tie-barred and would take effect on October 15, 2015.

House Bill 4610 (S-1)**Competitive Bidding for Single-Township Projects**

The following provisions of the bill would apply only to a road project involving unpaved roads with an estimated cost of more than \$25,000, or a road project involving paved roads with an estimated cost of more than \$50,000.

If a township contributed 50% or more to the cost of a road project that was located entirely within the jurisdiction of the township, and the road project did not disturb any multiple-township contract, the township board, by resolution, could require the county road commission to use competitive bidding to contract for the work on that road project. A county road commission would not be precluded from submitting a competitive bid.

If a township board required a county road commission to contract for work on a road project through competitive bidding, the county road commission would have to use the responsive and reasonable best value bidder process to bid the project contract, and would have to award the contract to a responsive and reasonable best value bidder.

Within 15 days after the deadline for accepting bids, the county road commission would have to do all of the following:

- Determine which bids submitted were qualified and which bids were not qualified based on the responsive and reasonable best value bidder process.
- Clearly mark the bids to indicate which bids were qualified and which were not qualified.
- Transmit all of the bids received to the township board at least 30 days before awarding the contract to a qualified bidder.

As used in these provisions, "responsive and reasonable best value bidder" would mean a bidder who meets one of the following: 1) complies with all bid specifications and requirements, and is listed by the Michigan Department of Transportation as a qualified bidder for the particular type of road project involved, or 2) complies with all bid specifications and requirements, and is determined by MDOT or the county road commission to be responsible using all of the following criteria: a) the bidder's financial resources, b) the bidder's technical capabilities, c) the bidder's professional experience, d) the bidder's past performance, and e) the bidder's insurance and bonding capacity.

Very Low-Volume Local Road Projects

The bill specifies that if a township contributed 50% or more to the cost of a very low-volume local road project that was located entirely within the jurisdiction of the township, and the road project did not disturb any multiple-township contract, the work on that project, at a minimum, would have to comply with the standards adopted by the American Association of State Highway and Transportation Officials (AASHTO) for very low-volume local road projects. A county road commission could not impose construction and design standards on a very low-volume local road project that exceeded AASHTO construction and design standards for such projects unless the township board approved those standards.

These provisions also would apply to instances in which two or more townships contributed 50% or more to the cost of a very low-volume local road project.

As used in these provisions, "very low-volume local road" would mean that term as defined by AASHTO in *Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT ≤ 400)*. (As defined by AASHTO, "very low-volume local road" means a road that is functionally classified as a local road and has a design average daily traffic volume (or ADT) of 400 vehicles per day.)

Multiple-Township Projects & Competitive Bidding

The following provisions of the bill would apply only to a road project involving unpaved roads with an estimated cost of more than \$25,000, or a road project involving paved roads with an estimated cost of more than \$50,000.

If two or more townships in combination with one another contributed 50% or more to the cost of a road project that was located entirely within the jurisdiction of those townships, and the road project did not disturb any multiple-township contract, the township board of each of those townships, by resolution, could require the county road commission to use competitive bidding for that road project. Competitive bidding by the county road commission would be required for such a project only if each township board passed a resolution requiring

the work to be awarded through competitive bidding. A county road commission would not be precluded from submitting a competitive bid.

The bill would extend the responsive and reasonable best value bidder process requirements to multiple-township road projects. The bill also would extend qualified bid determination requirements to multiple-township projects, except that the county road commission would have to transmit all of the bids received to each township board at least 30 days before awarding the contract to a qualified bidder.

House Bill 4611 (S-1)

Under Public Act 51, all Federal aid construction projects, and all other projects of MDOT concerning highways, streets, roads, and bridges whose costs exceed \$100,000 for construction or preservation, must be performed by competitive bidding unless the Department affirmatively finds that, under the circumstances, some other method is in the public interest. The bill would retain this requirement and the \$100,000 threshold, but would refer to "all construction projects of the department", rather than "all federal aid construction projects and all other projects of the department".

Currently, local road agencies that decide not to perform construction or preservation projects exceeding \$100,000 in cost must contract for the work through competitive bidding. The bill would delete this provision.

Under the bill, all construction projects of a local road agency whose costs exceeded \$100,000 for construction or preservation, excluding maintenance, would have to be performed by contract awarded by competitive bidding unless the agency affirmatively found that, under the circumstances, some other method was in the public interest. Installation or upgrading of advanced traffic management and signals would be exempt from this requirement.

The bill would require a county road commission, before work was begun, to report its findings in writing to the county board of commissioners of that county. A city or village would have to report its findings in writing to the governing elected body of the city or village, before work was begun.

Proposed MCL 224.19c (H.B. 4610)
MCL 247.661c (H.B. 4611)

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FISCAL IMPACT

The bills would have no fiscal impact on the State and an indeterminate fiscal impact on local road agencies and townships. While mandatory competitive bidding could result in savings on some road projects, it also could result in increased administrative costs.

Fiscal Analyst: Glenn Steffens

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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.