Legislative Analysis

ROAD FUND EXPENDITURES

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House Bill 4965 (proposed substitute H-2)
Sponsor: Rep. Rodney Wakeman

House Bill 4966 (proposed substitute H-1)
Sponsor: Rep. Andrea K. Schroeder

Committee: Transportation
Complete to 12-2-19

SUMMARY:

House Bills 4965 and 4966 would amend 1951 PA 51 ("Act 51") to modify provisions concerning the expenditure of Michigan Transportation Fund (MTF) revenue by local road agencies (county road commissions, and cities and villages). Specifically, House Bill 4965 would amend section 12 of the act, governing expenditures of county road funds by county road commissions, and House Bill 4966 would amend section 13, governing expenditures of municipal street funds by cities and villages. Generally, the bills would require that in spending from county road funds, or municipal street funds, local road agencies follow an asset management plan, if one has been approved.

Section 9a of Act 51 contains provisions regarding the adoption of asset management plans.[1] As defined in section 9a, "asset management" means an ongoing process of maintaining, preserving, upgrading, and operating physical assets cost-effectively, based on a continuous physical inventory and condition assessment and investment to achieve established performance goals. Section 9a defines "asset management plan" to mean a plan created by the Michigan Department of Transportation and approved by the State Transportation Commission, or a plan created by a local road agency and approved by the local road agency's governing body that includes provisions for asset inventory, performance goals, risk of failure analysis, anticipated revenues and expenses, performance outcomes, and coordination with other infrastructure owners.

<u>House Bill 4965</u> would amend section 12 of Act 51, the section governing the distribution of MTF revenue to county road commissions. The bill would require that MTF revenue distributed to a county road commission under the act for the preservation, construction, and acquisition of the *county road system* be expended as prescribed by the road county's asset management plan if such a plan has been approved.

Current provisions of section 12 direct the use of MTF revenue by county road commissions, including requirements that county road commissions expend certain MTF revenue on the county primary road system, and on the county local road system,

[1] http://legislature.mi.gov/doc.aspx?mcl-247-659a

respectively. The bill would largely eliminate the current specific earmarks for the county primary and county local road systems once an asset management plan is approved. Instead, once its asset management plan is approved, a county road commission would be required to expend the balance of MTF distribution, for the *county road system,* as prescribed by the plan.

Although the bill largely eliminates the current earmarking of MTF revenue between the county primary system and the county local road system for county road commissions that had an approved asset management plan, the bill retains language of section 12(15) that limits how much MTF money a county road commission can expend on local road construction. Specifically, section 12(15) allows the expenditure of MTF money distributed [to a county road commission] for *construction* on the county local road system [as opposed to preservation or maintenance] only to the extent matched by other sources. In practice, this provision means that a county road commission may only provide half the cost of a local road construction project from MTF revenue; the balance would have to come from other sources—typically from township contributions or special assessments. Current law allows a county road commission to expend MTF revenue for up to 75% of the cost of local bridge construction. Again, the balance of local bridge construction costs not covered by MTF revenue would have to come from other sources.

The bill would not change the general provision limiting the MTF share of local road construction. However, the bill would amend the limitation on local bridge construction to allow a county road commission to expend MTF funds on local bridge construction in excess of 75% on the cost of construction in the case of a public emergency.

And although the bill largely eliminates the current earmarking of MTF revenue between the county primary system and the county local road system, the bill retains section 12(9), which governs transfers between the county primary road fund and the county local road fund.

The bill would add new subsection (25) to authorize a county road commission to use a portion of its MTF distribution for payment of debt service on bonds, notes, or other obligations. Note that subsection (8) currently establishes payment of principal and interest on bonds issued by a road commission as the first priority for expenditure of county road funds.

House Bill 4965's amendments to section 11h of Act 51, a section that establishes a local agency wetland mitigation board fund and a local agency wetland mitigation bank program, appear to be technical in nature.

MCL 247.661h et seq.

House Bill 4966 would amend section 13 of Act 51, the section governing the distribution of MTF revenue to cities and villages. The bill would retain current earmarks of MTF revenue for the major street and local street systems. However, the bill would require that, once an asset management plan has been approved, MTF funds distributed to a city or village under the act must be expended for the preservation, construction, and acquisition of the municipal *street system* as prescribed in the asset management plan, or for an emergency as described in section 11c of the act.

The bill would add new subsection (15) to authorize a city or village to use a portion of its MTF distribution for payment of debt service on bonds, notes, or other obligations.

[Note: Section 12 currently allows such funds to be used, in certain cases, to pay principal and interest on the portion of a city's or village's general obligation bonds that is attributable to the construction or reconstruction of its street system. The bill would appear to remove this option if an asset management plan has been approved (unless, presumably, those payments were part of that plan).

Also, while the bill references "an emergency as described in section 11c", section 11c references emergencies only in relation to construction projects of the department; there is no reference in that section to emergency projects of local road agencies.]

MCL 247.663

BACKGROUND INFORMATION:

The Michigan Transportation Fund (MTF) is the primary collection and distribution fund for state restricted transportation revenue—generated primarily from motor fuel taxes and vehicle registration taxes. Together these sources were expected to generate $2.8 billion in FY 2018-19. MTF revenue is distributed by formula established in Act 51. Among recipients of MTF revenue are county road commissions, and cities and villages (local road agencies). This MTF distribution is the principal source of funding for local road agency road and bridge construction and preservation programs.

The estimated MTF formula distribution to county road commissions in FY 2018-19 is $1,003.4 million. This figure includes $103.2 million from the earmark of Income Tax revenue as well as $21.2 million from the Local Program Fund.

The estimated MTF formula distribution to cities and villages in FY 2018-19 is $571.3 million. This figure includes $57.6 million from the earmark of Income Tax revenue as well as $11.8 million from the Local Program Fund.

A more detailed description of the MTF distribution formula is found in House Fiscal Agency Fiscal Brief: MTF Distribution Formula to Local Road Agencies – Update, dated May 6, 2019.[2]

Historically, section 12 of Act 51 designated some of the MTF distribution to county road commissions for use on county primary and county local roads systems, respectively. 2010

[2] http://www.house.mi.gov/hfa/PDF/Alpha/Fiscal_Brief_MTF_Distribution_Formula_to_LRA_May19_Update.pdf

PA 143 amended this section to allow county road commissions more latitude in transferring funds from the county primary system to the local road system.[3]

Similarly, section 13 of Act 51 designated some of the MTF distribution to cities and villages for municipal major and local street systems, respectively. Section 13 has been amended several times over the last 20 years to allow cities and villages more latitude in transferring funds from municipal major streets to local street systems.

FISCAL IMPACT:

The bills would not change the current Act 51 distribution of MTF revenue to county road commissions or to cities and villages, either in total distribution or in the distribution of MTF funds among local road agencies.

The bills would ease current restrictions on the use of MTF revenue by local road agencies that had an approved asset management plan.

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[3] See http://legislature.mi.gov/doc.aspx?2009-HB-4848