

Legislative Analysis



ACTIVE RAIL GRADE CROSSING TRAFFIC CONTROL DEVICE MAINTENANCE COSTS

Phone: (517) 373-8080
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House Bill 4252 (H-1) as reported from committee
Sponsor: Rep. Tim Sneller
Committee: Transportation
Complete to 12-16-21

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 62 of 2022)

SUMMARY:

House Bill 4252 would amend the Railroad Code to change, effective July 1, 2022, the amounts that road agencies are obligated to pay annually to railroads for the maintenance of active traffic control devices, circuitry, and appurtenances at rail grade crossings. The current and proposed annual payment amounts are as follows:

Annual Statutory Railroad Grade Crossing Active Control Device Maintenance Payments		
	Current Law	House Bill 4252
Flashing signals on a single track	\$1,271	\$1,427
Flashing signals and gates on a single track	\$1,978	\$2,867
Flashing signals with cantilever arm on a single track	\$1,481	\$2,105
Flashing signals with cantilever arm with gates on a single track	\$2,389	\$3,239
Flashing signals and gates on multiple tracks	\$2,257	\$3,394
Flashing signals with cantilever arms and gates on a multiple track	\$2,398	\$4,352
Flashing signals on a multiple track	\$1,269	\$1,698
Flashing signals with cantilever arms on a multiple track	\$1,375	\$2,167

The bill also would change the way the annual maintenance payment amounts are recalculated. Under current law, the cost of maintaining active traffic control devices is determined through a cost study conducted every ten years by the Michigan Department of Transportation (MDOT). The bill instead would require the annual cost share amounts to be increased by 6.64% beginning on January 1, 2024, and on January 1 of each even-numbered year after 2024.

MCL 462.315

BACKGROUND:

Section 315 of the Railroad Code, in accordance with related section 301, authorizes MDOT to prescribe active traffic control devices at public railroad grade crossings.¹ Section 315 also requires that the cost of installing, altering, and modernizing active traffic control devices at railroad crossings, such as flashing lights and gates, be shared equally by the railroad and the road authority (that is, the governmental agency with jurisdiction over public streets and highways; effectively, MDOT, a county road commission, a city, or a village).

Section 315 requires that, after initial installation, all active traffic control devices, circuitry, and appurtenances be maintained, enhanced, renewed, and replaced by the railroad at its own expense, except that the road authority must annually contribute certain specified amounts to the railroad for that maintenance. (The specified amounts do not apply if an agreement exists between the railroad and the road authority.)

The amounts that the road authorities must contribute vary according to the kind of traffic control device. The payments required under current law and under provisions of the bill are shown in the table on the first page of this analysis.

When first enacted in 1993, section 315 of the Railroad Code directed MDOT to conduct a study of active traffic control device maintenance costs by January 1, 1999. This cost study was the basis of amendments made to section 315 by 2001 PA 5, effective April 12, 2001. Subsequent legislation, 2012 PA 421, updated the schedule of annual traffic control device maintenance payments to reflect the study of active traffic control device maintenance costs made by MDOT in 2009.

During 2019, MDOT's Office of Rail surveyed state railroads to obtain updated active traffic signal maintenance costs. The department published the results of the cost study on December 19, 2019.² The amounts shown in the study for various types of traffic control devices represent 50% of the annual maintenance cost of each type of signal, reflecting requirements of section 315 that installation, alteration, or modernization of active traffic control devices at railroad crossings be shared equally by the railroad and the road authority.

The results of that study were the basis for the updated payment amount figures included in HB 4252 as introduced. However, the amounts in the H-1 substitute reported from House committee are roughly 6% less than the maintenance cost amounts determined in the cost study.

MDOT indicates that there are approximately 240 at-grade rail crossings on the state trunkline system with active warning devices, but that railroads invoice for only 50 or so under the cost-sharing provisions of section 315. (The other trunkline crossings may be governed by prior

¹ Section 301 also addresses the cost of an adjustment or improvement, relocation, closure, grade separation, or other change determined necessary by a department order regarding a rail grade crossing. The section provides that work items that would usually be at the expense of the railroad or the road authority may be funded from federal railroad-highway grade crossing improvement program funds or state railroad grade crossing account funds, or both. The department indicates that virtually all new or upgraded installations are funded with federal aid and state rail grade crossing account funds.

² https://www.michigan.gov/documents/mdot/PA_354_of_1993_MCL_462.15_Section_3_Railroad_Active_Traffic_Control_Device_Maintenance_Costs_2020_FINAL_REPORT_674952_7.pdf

agreements where the annual maintenance cost payments are established at negotiated rates or subject to orders that predate the cost-sharing provisions of section 315.)

MDOT indicates that there are approximately 2,250 local rail grade crossings with active warning devices that may be subject to the section 315 cost-sharing requirements.

FISCAL IMPACT:

House Bill 4252 would increase state and local costs to the extent that it would increase the amount that MDOT and local road agencies would have to pay to railroads for maintenance of traffic control devices at railroad crossings. This impact would be specific to road agencies that have at-grade road/rail crossings controlled by active traffic control devices.³

The bill would not affect the actual costs of maintaining traffic control devices at public rail grade crossings. It would effectively adjust the share of those costs between railroad companies and public road agencies. If the bill were not enacted and current cost-sharing amounts were retained, private railroad companies would effectively bear a higher share of those maintenance costs, and public road agencies would bear a lower share.

Under the current provisions of section 315 of the Railroad Code, MDOT makes annual payments to railroad companies for its share of grade crossing traffic control device maintenance on state trunkline highways. MDOT indicates that it currently pays approximately \$80,000 per year for traffic control device maintenance at approximately 50 trunkline rail grade crossings under provisions of section 315.

We do not have an estimate of the amounts that local road agencies (county road commissions, cities, and villages) currently pay in active traffic control device maintenance costs under section 315, and we have not estimated the increased costs to those agencies under the bill. Again, the increased costs are only applicable to specific road agencies. It should be noted that the number and type of active control devices change over time, based on changed conditions and department orders.

Eliminating the requirement that MDOT conduct a decennial cost study would result in a cost savings to the department. The amount of savings would depend on the scope of the study and cannot be readily estimated. The department indicates that the costs of the 2019 study were nominal.

Fiscal Analyst: William E. Hamilton

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

³ The increased maintenance cost share figures would go into effect on July 1, 2022, the bill's effective date. However, it is not clear whether railroads use July 1 as a uniform billing date. Bills sent prior to July 1, 2022, would apparently use the older billing figures. The bill also would require the amounts a road authority must pay under section 315 to be increased by 6.64%, beginning on January 1, 2024, and on January 1 of each even-numbered year after 2024. Note that the date that new rates would go into effect in the future, January 1, does not correspond to the date the new rates would go into effect in the bill, July 1, 2022.