Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 465 and 466 (as introduced 5-20-21)
Sponsor: Senator Jim Runestad (S.B. 465)
Senator Michael D. MacDonald (S.B. 466)
Committee: Transportation and Infrastructure

Date Completed: 8-31-21

CONTENT

Senate Bill 465 would amend the Michigan Transportation Fund law to do the following:

- **Require funds used by the State to purchase local Federal funds that were available to be purchased by the Michigan Department of Transportation (MDOT) as part of the local Federal aid buyout program to be deducted before allocation of certain Federal funds appropriated to the State from the Federal government.**
- **Require MDOT, as part of the local Federal aid buyout program, to pay local road agencies the amounts identified in their three- or five-year local transportation improvement plan for each year in which they planned to participate in the program.**
- **Prescribe requirements that MDOT's Federal aid buyout program would have to meet.**
- **Allow MDOT, if it were unable to fulfill its Federal aid matching obligations for a fiscal year, to reduce the local Federal aid buyout program for a given fiscal year.**
- **Require MDOT, if it reduced the program, to submit a letter to the Michigan Senate and House of Representatives explaining why it was unable to fully fund its Federal aid matching obligation.**

Senate Bill 466 would amend the Michigan Transportation Fund law to require an amount equal to the amount of money owed by MDOT to local road agencies to purchase Federal funds under the local Federal aid buyout program as provided by Senate Bill 465 to be paid to local road agencies before distribution to the State Trunk Line Fund (STF).

The bills are tie-barred.

Senate Bill 465

Under the law, 23% to 27% of DOT-FHWA highway research, planning, and construction Federal funds appropriated to the State from the Federal government for road and bridge construction must be allocated to programs by local jurisdictions after deduction of the following:

- Funds that are specifically allocated at the Federal level to the State or local jurisdictions.
- Funds allocated by MDOT to the State and local jurisdictions through a competitive process.

In addition, the bill would require 23% to 27% of the funds described above to be allocated to programs by local jurisdictions after deduction of funds used by the State to purchase local Federal funds that were available to be purchased by MDOT as part of the local Federal aid buyout program described below.

Under the bill, as part of the local Federal aid buyout program operated by MDOT, the Department would have to pay local road agencies the amounts identified in the local road agency's three- or five-year local transportation improvement plan for each year in which the local road agency planned to participate in the local Federal aid buyout program. The Department's local Federal aid buyout program also would have to meet the requirements described below.

As part of the local Federal aid buyout program, MDOT would have to make available to local road agencies up to 93% of the eligible local Federal funds allocated to local road agencies for the Surface Transportation Block Grant program funding. The Department would have to pay local road agencies the amount of Federal funds, identified in the approved State Transportation Improvement Plan, as determined by the local road agency, not exceeding 100% of the total local road agency eligible funds. The Department also would have to require road projects funded by the local Federal aid buyout program to be rural taskforce-approved or metropolitan planning organization-approved projects and require that contracts between local road agencies and contractors, for road projects funded by the local Federal aid buyout program, contain a Federal wage and benefits schedule consistent with, and incorporating the requirements of, Section IV of Form FHWA-1273, revised May 1, 2012, or any successor form. The contract would have to provide that covered workers were third-party beneficiaries of these contract requirements.

The local road agency would have to notify MDOT, its rural task force, and its metropolitan planning organization before the fiscal year that projects the local road agency had determined would be included in the local Federal aid buyout program for the next fiscal year. The local road agency would have to complete the identified projects with the Federal buyout funds. The local road agency would have to spend any remaining Federal buyout funds on Federal aid eligible roads for activities and improvements, not including routine maintenance, or use the remaining Federal buyout funds as additional funds for any Federal aid project undertaken on roads under its jurisdiction. A local road agency would have to complete an eligible activity or improvement with the Federal buyout funds within three years after receiving them.

If the identified projects could not be completed within the required three-year time frame, the local road agency would have to notify MDOT and its rural task force of the limitation and identify an alternate Federal aid eligible road project where a similar improvement would be accomplished within the original three-year time frame.

The completed road projects accomplished with the Federal buyout funds would have to be documented with the Transportation Asset Management Council investment reporting tool and reported in the fiscal year that the project was completed.

(The Surface Transportation Block Grant Funding offers funding to States and local agencies to preserve and improve the conditions of any Federal-aid highway, bridge and tunnel projects on any public road, pedestrian and bicycle infrastructure, and transit capital projects.)

The bill also specifies that if MDOT could not fulfill its Federal aid matching obligation to obtain all available Federal funds for a fiscal year, it could reduce the local Federal aid buyout program for that fiscal year. However, MDOT could reduce the amount of the local Federal aid buyout funds only if that reduction were necessary to ensure that MDOT could perform routine maintenance, operate safety programs, and carry out other administrative functions. The Department would have to make the determination before the beginning of the fiscal year and would have to notify all local road agencies that had submitted applications for the local Federal aid buyout program for that fiscal year before the beginning of the fiscal year.

If MDOT reduced the local Federal aid buyout program, it would have to submit a detailed letter of explanation to the chairs of the Senate and House transportation committees, the chairs of the Senate and House transportation appropriations subcommittees, the Senate Majority Leader, and the Speaker of the House explaining why MDOT could not fund fully its Federal aid matching obligation.

Senate Bill 466

Generally, the law establishes the Michigan Transportation Fund (MTF) and provides the manner in which apportioned and appropriated money within the MTF must be distributed. After the deduction of certain amounts specified by the Act, the Act requires the balance of the MTF to be appropriated and apportioned as follows:

-- 39.1% to the county road commissions of the State.
-- 21.8% to the cities and villages of the State.
-- 39.1% to the STF for the purposes described in Section 11 of the law.

(Section 11 of the law establishes the STF and requires money deposited into the Fund to be used for certain purposes, including: 1) the payment of bonds, notes, or other obligations, 2) the transfer of money as appropriated to the Transportation Economic Development Fund, 3) the transfer of money as appropriated to the rail grade crossing account, 4) the transfer of money as appropriated to the grade crossing surface account, 5) the total operating expenses of the STF, 6) and for the preservation, reconstruction, and improvement of State trunk line highways and bridges.)

Under the bill, before the distribution of the 39.1% to the STF for purposes described in Section 11, each year an amount equal to the amount of money owed by MDOT to local road agencies to purchase local Federal funds under the local Federal aid buyout program as provided in Section 10o(5) (which Senate Bill 465 would amend) would have to be paid to local road agencies.

MCL 247.660o (S.B. 465)
247.660 (S.B. 466)

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bills could significantly increase MDOT's allotment of Federal aid at a near-equivalent cost to the Department's appropriated share of the MTF under Public Act 51 of 1951. The bills would not have a direct fiscal impact on the State or local units of government, as they do not create new revenue or expenditures; however, the bills could create a savings in the cost of construction projects on roads under local jurisdiction at an estimated rate of between 20% and 30%.

The bills would create a buyback program within MDOT to give local agencies the opportunity to exchange their portion of Federal aid for the Department's STF dollars at a rate of 93%. It is believed that this exchange would mean significant savings in administrative costs to local road agencies, whose financial and administrative offices are much smaller than MDOT's. A savings due to reduced labor costs is unlikely; Senate Bill 465 would require that local project contracts paid for through the buyback program be compliant with Federal wage requirements under the Davis-Bacon Act of 1931. Additionally, road construction labor is at a premium, and even without this requirement, it would be unlikely that projects funded through the buyback program would result in any savings from labor costs.

The chief concern for MDOT is whether there would be enough STF money, after the proposed statutory commitment of STF dollars to the buyback program, to fund MDOT's other STF obligations, including bond payments, highway maintenance, and MDOT's own Federal matching obligations; however, this concern is addressed in Section 10o(6) (which Senate Bill 465 would add), which would allow MDOT to reduce buyout funding through the program should there be a shortage of STF for its other obligations.

The Department has offered local units of government options for Federal buyback in the past. Throughout most of the 2000s, MDOT made available a voluntary buyback program for local units that exchanged Federal funds for STF dollars at a rate of 75%. The program ceased when MDOT's annual allotment of the MTF became too small to continue the program. The road funding package of 2015 increased revenue from gas and registration taxes in more recent years, allowing for the return of a Federal buyback program. In the decades to come, however, MDOT's current bonding initiative for $3.5 billion in new debt over four years will inevitably result in larger bond payments, possibly causing MDOT, again, to cease offering Federal buyback should the bills become law, which it would be allowed to do under Section 10o(6).

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