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House Bill 5460 (Substitute H-3 as passed by the House)
Sponsor: Representative Dan Lauwers
House Committee: Transportation and Infrastructure
Senate Committee: Infrastructure Modernization

Date Completed: 5-27-14

CONTENT

The bill would amend the Michigan Transportation Fund law to do the following:

- **Require the Michigan Department of Transportation (MDOT), county road commissions, and cities and villages to secure warranties for full replacement or appropriate repair guarantee for projects exceeding \$1.0 million, construction projects undertaken after the bill took effect, and all other projects where possible.**
- **Require MDOT, county road commissions, and cities and villages to generate an annual report of all warranties secured and projects for which warranties were not secured.**
- **Require MDOT, county road commissions, and cities and villages to make the annual report available upon request and publish it on a website, as applicable.**

The law created the State Trunk Line Fund and requires that money deposited in the Fund be appropriated to MDOT to be used for certain purposes in a particular order of priority.

The Act also requires MDOT to spend at least 90% of State revenue appropriated annually to the State Trunk Line Fund, less amounts for certain other priorities, for the preservation of highways, roads, streets, and bridges and for debt service payments on bonds, notes, and other obligations. Of the amount appropriated for State Trunk Line projects, the Act requires MDOT, where possible, to secure warranties of not less than five-year full replacement guarantee for contracted construction work. The bill, instead, would require MDOT to secure warranties for full replacement or appropriate repair guarantee for projects that would exceed \$1.0 million in cost, projects for new construction or reconstruction that would begin after the bill's effective date, and all other projects where possible.

The bill would require MDOT to compile and make available to the public an annual report of all warranties secured, and indicate whether any of the warranties were redeemed. The report would have to be available to the public upon request and MDOT would have to publish the report on its website. The Department also would have to include a list of all projects for which a warranty was not secured, and include the following information:

- The type of project.
- The cost or estimated cost of the project.
- The expected lifespan of the project.
- Whether the project met or was currently meeting its expected lifespan.
- If the project failed to meet or was not meeting its expected lifespan, the cause of the failure and the cost to replace the project.
- The entity responsible for paying the cost of replacing or repairing the project.

The bill would extend the warranty and reporting requirements to county road commissions and cities and villages for amounts appropriated from the State Trunk Line Fund for a county primary or local road system, or a city or village major or local street system. If the county road commission, city, or village had a website, the report would have to be posted on the website.

MCL 247.661 et al.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have an indeterminate fiscal impact at the State and local levels. Mandatory warranties likely would result in an indeterminate increase in costs in the short term. The long-term effects are indeterminate. Project warranty reporting requirements would result in increased administrative responsibilities at the State and local levels.

The bill would mandate warranties for full replacement guarantee or appropriate repair on all State and local road projects that: 1) exceeded \$1.0 million in costs; or 2) were for new construction or reconstruction undertaken after the effective date of the bill. All other projects would be required to carry warranties where possible.

The State and local governments likely would face increased costs due to this requirement. Since obtaining a full replacement guarantee or appropriate repair warranty product typically requires a contractor to obtain a warranty bond, and the immediate cost of such a product usually is passed on to the consumer, it is likely that associated costs would be included in a contractor's bid or price.

In the long term, it is unclear whether a warranty mandate would generate savings. Future maintenance and reconstruction costs could decrease, since these tasks would be covered under secured warranties. However, it is unknown whether the up-front cost of obtaining warranties would exceed any potential long-term savings and cost less than future repairs.

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.