



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5335 (Substitute H-2 as reported without amendment)
House Bill 5406 (Substitute S-1 as reported)
House Bill 5408 (Substitute S-1 as reported)
Sponsor: Representative Rob VerHeulen (H.B. 5335)
Representative Roger Victory (H.B. 5406)
Representative Triston Cole (H.B. 5408)
House Committee: Transportation and Infrastructure
Senate Committee: Transportation

CONTENT

House Bill 5335 (H-2) would enact the "Michigan Infrastructure Council Act" to do the following:

- Create the Michigan Infrastructure Council within the Department of Treasury.
- Prescribe the duties of the Council, including the development of a multiyear program, work plan, budget, and funding recommendation for asset management; and the preparation of an annual report on the current statewide asset management assessment that tracks progress on established performance goals.
- Specify that funding necessary to support the activities described in the Act would have to be provided through funds as provided by law.

House Bill 5406 (S-1) would add Part 50 (Water Asset Management Council) to the Natural Resources and Environmental Protection Act to do the following:

- Create the Water Asset Management Council within the Michigan Infrastructure Council.
- Prescribe the duties of the Council, such as advising the Michigan Infrastructure Council on a statewide water asset management strategy, promoting and overseeing the implementation of the recommendations from the Regional Infrastructure Asset Management Pilot Program, and developing a template for an asset management plan by October 1, 2019.
- Allow State funding to be provided to asset owners to implement Part 50 as determined by the Water Asset Management Council.
- Require the Council to establish a schedule for submission of asset management plans by October 1, 2019.
- Require each asset owner to report annually to the Council how its capital improvement program for assets included in any asset management plans was meeting its investment goals.
- Require the Council to identify training needs to develop proficiency in using a multi-asset management system for asset owners, and training to identify asset system conditions.
- Require the Council, by May 2 of each year, to submit to the Infrastructure Council a report on the activities conducted during the preceding year and the expenditure of funds.
- Require the Department of Environmental Quality (DEQ) to provide qualified administrative staff and technical assistance to the Water Asset Management Council.
- Require the DEQ and asset owners to keep records on work performed and funds spent for purposes of Part 50.

House Bill 5408 (S-1) would amend the Michigan Transportation Fund law to do the following:

- Require the Transportation Asset Management Council (TAMC) to be placed within the Michigan Infrastructure Council.
- Require the TAMC to advise the Infrastructure Council on a statewide transportation asset management strategy and the processes and tools needed to implement that strategy.
- Require the TAMC to promote and oversee the implementation of recommendations from the Regional Infrastructure Asset Management Pilot Program on a statewide level, and, by October 1, 2019, develop a template for an asset management plan for use by local road agencies; and otherwise revise the duties of the Council.
- Require a local road agency to give the Council a three-year asset management plan beginning October 1, 2020, and otherwise revise reporting requirements for local road agencies.
- Allow the Department of Transportation to withhold funds distributed to a local road agency under the law if that agency were required to submit an asset management plan and had not done so 120 days after receiving a notice from the Department, until it submitted a satisfactory plan.
- Prohibit a local road agency from shifting funds distributed to it under the law from a county primary road system to a county local road system, or from a city major street system to a city local street system, if the Council determined that the agency had not demonstrated progress toward achieving the condition goals described in its asset plan and was not compliant within six months after receiving notice of noncompliance, until the agency demonstrated progress.
- Allow a local road agency to seek and use Federal grants or loans to achieve the goals and manage the asset inventory described in its asset management plan.
- Require the Council, by May 2 of each year, to submit a report on the activities conducted during the preceding year and the expenditure of funds, to the State Transportation Commission, the Legislature, and the transportation committees of the House and Senate.

Proposed MCL 324.5001-324.5007 (H.B. 5406)
MCL 247.659a (H.B. 5408)

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

House Bill 5335 (H-2) would add costs primarily to the Department of Treasury, and potentially to the Departments of Agriculture and Rural Development, Environmental Quality, Natural Resources, Technology, Management, and Budget, and Transportation. The costs would depend on the amount of administrative and technical support needed for the Michigan Infrastructure Council to carry out its duties. Since the Council would be created in the Department of Treasury, that Department would likely carry the most significant amount of the costs. The other Departments could experience varying costs depending on the amount of additional support needed by their staff. These costs could directly be appropriated to the Department of Treasury or appropriated to other Departments and paid to Treasury through an interdepartmental grant or memorandum of understanding. The Council could have additional costs from contracting out services to provide additional support.

Public Act 107 of 2017, the fiscal year (FY) 2018-19 initial appropriations act, appropriated \$35.0 million to the State Infrastructure Fund, which can be used to fund various infrastructure projects or could be used for the administration of the Michigan Infrastructure Council. Public Act 201 of 2017, an FY 2018-19 supplemental appropriations act, appropriated \$3.5 million from the State Infrastructure Fund to various infrastructure council functions. In anticipation of the creation of the Michigan Infrastructure Council, the Act appropriated \$1.5 million directly to it in the Department of Treasury budget to begin working on work plans and reports. The Act also appropriated \$2.0 million to the Asset Management Council in the Department of Transportation to carry out asset management analyses in coordination with the Infrastructure Council. The State Infrastructure Fund has paid for various infrastructure projects throughout the State, with the remaining \$35.0 million being spent on those projects.

The Infrastructure Council could receive additional funding from the State Infrastructure Fund when it is available or directly from the General Fund. The bill would not mandate appropriations to be made based on the results of the various work plans and annual reports from the Council.

House Bill 5406 (S-1) would have a negative fiscal impact on the State as a whole as well as the Department of Environmental Quality, and an indeterminate fiscal impact on local government. The DEQ would experience some increased costs associated with providing administrative and professional support to the Water Asset Management Council. Absent additional appropriations, existing DEQ staff resources would bear these costs and duties.

The bill also would require drinking water, wastewater, and stormwater agencies to submit an asset management plan to the Council. This would result in additional costs for those agencies (local units, generally) to create those plans. However, the bill would establish a cost-sharing mechanism for the State to cover those costs, assuming the necessary level of funding was appropriated. It is possible that a reasonably large portion of these costs could be avoided as, over the last few years, about \$365.0 million has been made available for Stormwater, Asset Management, and Wastewater (SAW) grants, and the asset management plans that resulted from that funding could likely be used to comply with the proposed requirement. However, for those agencies that did not receive a SAW grant and do not have an adequate asset management plan, the bill would result in increased costs.

House Bill 5408 (S-1) would have a minimal, negative impact upon the Department of Transportation and an indeterminate, negative impact upon local road agencies. The bill would move the operations and responsibilities of the Transportation Asset Management Council (TAMC) from the Department of Transportation to the Department of Treasury. It is expected that this would result in a loss of transportation funding for the TAMC, but also a reduction of the expenditures associated with the work and FTEs related to the TAMC. This could, in theory, result in a net zero impact upon the Department of Transportation, except that the bill would require the Department to provide qualified administrative staff to the TAMC. It is also expected that the Department would still coordinate to some degree with the TAMC for the exchange of asset management planning data between the TAMC and local road agencies.

The bill would add increased reporting requirements to the TAMC beginning in October 2020 for local road agencies responsible for 100 or more certified miles of road. One third of those agencies would have to submit a three-year asset management plan to the TAMC, another third the following year, etc. The associated costs likely would vary from agency to agency, as it some probably are more developed in asset management implementation than others.

Any agency with 100 or more certified miles that failed to submit an asset management plan to the TAMC by October 2024 would be denied State funding under Public Act 51 of 1951, the Michigan Transportation Fund law, until a satisfactory plan was submitted. Beginning October 2025, and after a six-month notice period, any agency with 100 or more certified miles that failed demonstrate progress in achieving the goals indicated in its asset management plan submitted to the TAMC would be restricted in the use of its State funding under Public Act 51. All 83 county agencies would potentially be subject to these penalties. An initial review of city/village road miles indicates that the following cities also could be subject to these penalties: Ann Arbor, Battle Creek, Bay City, Burton, Dearborn, Dearborn Heights, Detroit, Farmington Hills, Flint, Garden City, Grand Rapids, Holland, Jackson, Kalamazoo, Lansing, Lincoln Park, Livonia, Midland, Muskegon, Norton Shores, Novi, Pontiac, Port Huron, Portage, Rochester Hills, Romulus, Roseville, Royal Oak, Saginaw, Southfield, St. Clair Shores, Sterling Heights, Taylor, Troy, Walker, Warren, Westland, and Wyoming.

Date Completed: 5-14-18

Fiscal Analyst: Cory Savino/Josh Sefton/Michael Siracuse

[floor/hb5335](#)

Bill Analysis @ www.senate.michigan.gov/sfa

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.