

Legislative Analysis



STATE INFRASTRUCTURE BANK AND DEFINITION OF MUNICIPAL SECURITY

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House Bill 6087 (H-1) as reported from committee
Sponsor: Rep. Ben Frederick

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

House Bill 6088 as reported from committee
Sponsor: Rep. Gary Howell

Committee: Transportation and Infrastructure
Complete to 12-3-18

(Enacted as Public Acts 507 and 508 of 2018)

SUMMARY:

House Bill 6087 would amend Public Act 51 of 1951 (“Act 51”), the statute that, broadly speaking, governs the distribution and use of state transportation funds. The bill would add Section 18m to the act to authorize a *local road agency* or a *public transportation system* to borrow money from a state infrastructure bank program administered by the Michigan Department of Transportation in accordance with regulations of the state infrastructure bank program of the United States Department of Transportation.

The bill would define *local road agency* to mean that term as defined in Section 9a of Act 51, i.e., a county road commission or designated county road agency or city or village responsible for the construction or maintenance of public roads within the state.

Public transportation system would mean that term as defined in Section 2 of the Regional Transit Authority Act, i.e., a public or private entity that provides public transportation services, subject to inclusions and limitations as described in that act.

Proposed MCL 247.668m

House Bill 6088 would amend the Revised Municipal Finance Act to specify that a municipal security would not include a loan from the state infrastructure bank as described in Section 18m of Act 51.

MCL 141.2105

House Bill 6088 is tie-barred to House Bill 6087, which means that it could not take effect unless House Bill 6087 were also enacted.

Each bill would take effect 90 days after enactment.

BACKGROUND INFORMATION:

State Infrastructure Bank (SIB) programs are an innovative transportation finance tool. The use of federal funds to establish SIBs was authorized under Section 350 of the National Highway System Designation Act of 1995 (Public Law 104-59). The Michigan Department of Transportation (MDOT) has administered an SIB program since 1998.

Michigan's SIB program was first authorized in appropriations boilerplate, Section 317 of Public Act 309 of 1998 (House Bill 5594)—the FY 1998-99 state transportation appropriations act:

Sec. 317. (1) From funds appropriated in part 1, the department may establish a state infrastructure bank program and grant or loan funds in accordance with regulations of the state infrastructure bank program of the United States department of transportation. The state infrastructure bank is to be administered by the department for the purpose of providing a revolving, self-sustaining resource for financing transportation infrastructure projects.

(2) A state infrastructure bank fund is created. In addition to funds provided in subsection (1), money received by the state as federal grants, repayment of state infrastructure bank loans, or other reimbursement or revenue received by the state as a result of projects funded by the program shall be deposited in the revolving state infrastructure bank fund and shall be available for transportation infrastructure projects. At the close of the fiscal year, any funds remaining in the state infrastructure bank fund shall remain in the fund and be carried forward into the succeeding fiscal year.

Similar authorizing language has been in each subsequent state transportation appropriations bill.

The program is not specifically authorized or referenced in state statute, and there is no State Transportation Commission policy governing the program.

The SIB is effectively a revolving fund, or bank, used to help finance local road and transit projects. The state is also eligible for loans, but as a practical matter, the state has access to other sources of finance and doesn't compete with local agencies for these funds. Local units of government can use SIB financing to pay for emergency projects or for a project that would otherwise take several years to save for.

The SIB was initially capitalized at \$15.0 million—\$11.0 million in federal funds and \$4.0 million in state matching funds. Because the federal program is a reimbursement program, federal funds were credited to the SIB based on the program's historic outlay rate. The final federal disbursement of cash to the SIB occurred in FY 2005-06. As of the end of FY 2003-04, the SIB had received 97% of the original federal obligation. The state match was deposited on the same schedule as federal disbursements.

MDOT accounts for federal funds, state matching funds, and loan repayments within the SIB separately. Federal funds, state matching funds, and loan repayments made from any federal

source may be used only for projects that are federal-aid eligible. Loan repayments made from non-federal sources may be used for any Act 51 eligible project.

SIB loans are made under terms of a formal loan agreement between the local unit of government and MDOT. These agreements require the approval of the State Transportation Commission and the State Administrative Board. The SIB program is housed within MDOT's Office of Economic Development and Enhancement.

MDOT prepares an annual report on SIB projects, including a list of loans and the fund balance, for the MDOT director and the Federal Highway Administration (FHWA). Starting in FY 2012-13, a similar report has been sent to the legislature and posted to MDOT's website, as required by appropriations boilerplate.

Under MDOT's program guidelines, loans are generally limited to \$2.0 million. Loan terms cannot exceed 25 years or the life of the asset, whichever is shorter. Based on the most recent annual report to the FHWA, from the inception of the program through September 30, 2017, the SIB has made 80 loans, totaling \$63.7 million, to local units of government. These loans helped finance projects with a total cost of over \$283.8 million.

As of September 30, 2017, the SIB had a fund balance of \$26.0 million, of which \$18.6 million represented loan balances due from local units of government, and \$7.4 million was in cash or cash equivalents available for loan to eligible applicants. The current fund balance, and the amount currently available for loan, is a function of loan repayments and new loans made, since September 30, 2017.

FISCAL IMPACT:

As noted above, MDOT has administered a SIB program since 1998. From the inception of the program through September 30, 2017, the SIB has made 80 loans, totaling \$63.7 million, to local units of government. However, it is our understanding that House Bills 6087 and 6088 have been introduced to resolve a potential legal impediment that could prevent local road agencies from borrowing from Michigan's SIB. As a result, there is a potential fiscal impact if the bills do not pass and local road agencies are no longer able to access SIB loans. Aside from this potential impact, the bills do not appear to have a direct fiscal impact on the state of Michigan or on local units of government.

House Bill 6087 as introduced had only referenced "local road agencies" in granting authority to borrow from the SIB. The H-1 substitute includes both local road agencies and a *public transportation system* as eligible SIB borrowers. The bill defines "public transportation system" to mean what that term means in section 2 of the Regional Transit Authority Act (Public Act 387 of 2012), the act that established the Regional Transit Authority (RTA) of Southeast Michigan. The bill would effectively exclude from eligible borrowers a number of other public transit authorities and agencies that are currently eligible to borrow from the SIB.

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.