Legislative Analysis

MARIJUANA TAX DISTRIBUTION TO THE MICHIGAN TRANSPORTATION FUND

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Senate Bill 1103 as passed by the Senate
Sponsor: Sen. Curtis Hertel, Jr.
House Committee: Appropriations
Senate Committee: [Referred to Committee of the Whole]
Complete to 9-22-20

SUMMARY:

Senate Bill 1103 would amend section 10 of 1951 PA 51 (Act 51). Among other things, the bill would allow the distribution to the Michigan Transportation Fund (MTF) of tax revenue collected under the Michigan Regulation and Taxation of Marihuana Act, the 2018 initiated law that provided a regulatory framework for adult-use (recreational) marijuana in Michigan.

Marihuana Regulation Fund Distribution

The Michigan Regulation and Taxation of Marihuana Act imposes, in addition to all other taxes, an excise tax on each marijuana retailer and on each marijuana microbusiness at the rate of 10% of the sales price for marijuana sold or otherwise transferred to anyone other than a marijuana establishment. The act created the Marihuana Regulation Fund and requires all money collected from taxes and fees under the act to be deposited in that fund.

Under the act, the Department of Licensing and Regulatory Affairs must spend money in the fund first for the implementation, administration, and enforcement of the act, and second, until 2022 or for at least two years, to provide $20.0 million annually to one or more clinical trials that are approved by the US Food and Drug Administration and sponsored by a nonprofit organization or researcher in an academic institution researching the efficacy of marijuana in treating veterans medically and preventing veteran suicide.

The act then provides that, upon appropriation, unexpended balances must be allocated as follows:

- 15% to cities, villages, and townships in which a marijuana retail store or microbusiness is located, allocated proportionally.
- 15% to counties in which a marijuana retail store or microbusiness is located, allocated proportionally.
- 35% to the School Aid Fund for K-12 education.
- 35% to the MTF for the repair and maintenance of roads and bridges.

The MTF is the collection and distribution fund for dedicated state transportation revenue, primarily from motor fuel taxes and vehicle registration taxes. Section 10 of Act 51 governs the distribution of MTF revenue; the section directs MTF revenue to the State Trunkline Fund (STF), to other state transportation funds and programs, and to local road agencies (county road commissions, cities, and villages).

The bill would add funds allocated to the MTF under the Michigan Regulation and Taxation of Marihuana Act to the apportionment and distribution of MTF funds under section 10.

Senate Bill 1103 would also amend section 10 of Act 51 to make the changes described below.

Use of Other Tax Sources for the MTF
The MTF is the primary collection and distribution fund for constitutionally restricted transportation revenue—revenue derived from motor fuel taxes and vehicle registration taxes. For many years, section 10 of Act 51 specified those tax sources and limited MTF revenue to those specific tax sources, as follows:

> Money received and collected under the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170, except a license fee provided in that act, and a tax, fee, license, and other money received and collected under sections 801 to 810 of the Michigan vehicle code, 1949 PA 300, MCL 257.801 to 257.810, except a truck safety fund fee provided in section 801(1)(k) of the Michigan vehicle code, 1949 PA 300, MCL 257.801, and money received under the motor carrier act, 1933 PA 254, MCL 475.1 to 479.43, shall be deposited in the state treasury to the credit of the Michigan transportation fund. In addition, income or profit derived from the investment of money in the Michigan transportation fund shall be deposited in the Michigan transportation fund.

The above language was stricken from section 10 by 2015 PA 175, an amendatory act that was part of the 2015 Road Fund Package and took effect April 1, 2015.

However, 2015 PA 175 retained limiting language: "Except as provided in this act, no other money, whether appropriated from the general fund of this state or any other source, shall be deposited in the Michigan transportation fund."

Senate Bill 1103 would strike that limiting sentence, which would appear to allow the use of other revenue sources, including state General Fund/General Purpose revenue, for credit to the MTF.

Earmark of Federal-Aid Revenue
Current law earmarks certain federal aid to the Transportation Economic Development Fund (TEDF). Specifically, the TEDF receives an earmark of 31.5% of the funds appropriated to Michigan under the Federal-Aid Surface Transportation "Minimum Guarantee." This earmark is in turn suballocated between two TEDF categorical programs, one targeted for certain urban counties and one targeted for rural counties.

The "Minimum Guarantee" program was renamed "Equity Bonus" in the 2005 Federal-Aid Surface Transportation program reauthorization (SAFETEA-LU). The 2012 reauthorization of the Federal-Aid Surface Transportation program (MAP-21) eliminated Equity Bonus entirely as a separate program. The Michigan Department of Transportation has continued to earmark a portion of federal-aid highway funds to local agency programs in amounts equal to the previous Equity Bonus program.

Senate Bill 1103 would amend section 10 to direct that an amount *equal to* 31.5% of the federal aid funds formerly appropriated to the state under the Minimum Guarantee program be allocated to the TEDF.

MCL 247.660

FISCAL IMPACT:

Senate Bill 1103 would amend section 10 of Act 51 to allow the distribution to the MTF certain tax revenue collected under the Michigan Regulation and Taxation of Marihuana Act, the 2018 initiated law that provided a regulatory framework for adult-use (recreational) marijuana in Michigan.

The Michigan Department of Treasury has estimated tax revenue from the Michigan Regulation and Taxation of Marihuana Act for credit to the MTF as follows:

FY 2019-20 - $4.2 million
FY 2020-21 - $27.3 million
FY 2021-22 - $52.9 million

These amounts would be distributed to the STF, to county road commissions, and to cities and villages, in accordance with the current Act 51 formula of section 10(1)(*l*): 39.1%, 39.1%, and 21.8%, respectively.

Fiscal Analyst: William E. Hamilton

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