

ACT 51 - DEFINITION OF MAINTENANCE



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FISCAL ANALYSIS

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HOUSE BILL 5383 AS ENACTED PA 498 OF 2002

Sponsor: Rep. Tom George
House Committee: Transportation

ENACTED ANALYSIS - 9/25/03

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SUMMARY

HB 5383, as enacted, amended Public Act 51 of 1951 (MCL 247.651 et. seq.) to strike definitions of, or references to, "maintenance" or "maintaining" in Sections 1b(1), 11(4), 12(18), and 20a(e). The bill replaced those definitions with new definitions in Section 10c. The bill included a new definition of "maintenance" in Section 10c, and added definitions of the terms "preservation", "routine maintenance", "preventive maintenance" and "capital preventive treatments" - terms not previously defined in Act 51. The bill struck the word "maintenance", and replaced it with the word "preservation" in Sections 10h, 11(1), 11(2), 11(3), 11(11)*, 11c, 12(5), 12(6), 12(7), 12(16), 12(17), 12(18)*, 12(19)*, 12(20)*, 18e, and 20a.

The bill has no apparent fiscal impact on state or local governments. A more detailed analysis of the bill follows below.

Background

One of the recommendations of the Act 51 Transportation Funding Study Committee (May, 2000) was that a *"Technical Advisory Panel develop a uniform definition of maintenance and that the Legislature revise current transportation laws to incorporate the definition."* The Study Committee report identified this recommendation as related to the key recommendation that *"a long term planned asset management process be extended to statewide use for transportation facilities"*.¹ The report indicated *"The asset management approach will work best when standards for maintenance are based upon definitions that are uniform across jurisdictions."* The report emphasized the need for *"a clear distinction between routine maintenance activities and capital preventive maintenance activities which extend the useful life of the road"*. For the complete Act 51 Transportation Funding Study Committee report see: http://www.michigan.gov/documents/execsum2_19265_7.pdf

Definition of Maintenance

Public Act 51 of 1951 (MCL 247.651 et. seq.) governs the distribution of transportation funds in Michigan. Prior to enactment of HB 5383 there were several sections dealing with the definition of the terms "maintenance" or "maintaining". The terms were defined in Section 11(4) with regard to expenditures from the state trunkline fund, and in Section 12(18) with regard to activities of county road commissions. Section 1b(1) prescribed the responsibilities of the state transportation department for "maintaining state trunkline highways" within a city or village. Section 20a(e) referred to the definition of "maintenance" in 1b for the purposes of prescribing the terms of an agreement between certain county road commissions and certain townships for the maintenance of the county local road system within a township. HB 5383 struck the definitions of "maintenance" and "maintaining" in sections 11(4), 12(18), and 1b(1) as well as the reference to 1b in Section 20a(e). The bill added a new definition of "maintenance" in Section 10c. The bill also added to

¹ HB 5396 (PA 499 of 2002) amended Act 51 to establish an asset management council within the State Transportation Commission.
* = renumbered section.

Section 10c definitions of the terms "preservation", "routine maintenance", "preventive maintenance" and "capital preventive treatments". The flowcharts at the end of this analysis show the definitions offered in HB 5383, as well as the relationship between the various defined activities.

Preservation/Maintenance

The bill struck the word "maintenance" and replaced it with the word "preservation" in sections 11(2), 11(3), 11(11)*, 12(16), 12(17), 12(18)*, 12(20)*, 18e. These sections limited the amounts which the Michigan Department of Transportation and county road commissions can spend on new road construction (or administration) as opposed to "maintenance" – or "preservation" under the enacted bill ². Other than the change in terminology, the bill did not materially alter the effect of those sections.

The bill also substituted "preservation" for "maintenance" in the following sections:

Section 11(1) – (provides priority order for State Trunkline Fund appropriations)

Section 10h – (provides for a reporting requirement)

Section 11c – (requires competitive bidding for certain projects)

Sections 12(5), 12(6), 12(7) – (governs Michigan Transportation Fund distribution to county road commissions)

Section 12(19)* - (designates authority for road program in charter county)

Section 20a – (governs maintenance agreements between townships and county road commissions)

Other Changes

The bill added a definition of "County Road Commission" in Section 10c.

The bill added language in Section 18b regarding the State Transportation Commission's bonding authority. This section was the subject of a subsequent amendment to Act 51 made in SB 1301 (PA 467 of 2002).

Items Not Included in Enacted Bill

The House-passed version of the bill had included a new section (Section 10p) which required governmental units to use the new definitions of "maintenance" and "capital preventive treatments" in contracts with road agencies or townships. The section also provided that units of governments which perform certain maintenance services on state or local roads would not be precluded from performing those services based on the definitions in 10c. This section was not included in the enacted bill.

In addition, the House-passed version of the bill included an amendment to Section 12c to establish criteria under which a county primary road, previously transferred to the jurisdiction of a city or village, may be transferred back to jurisdiction of a county road commission. This language was not included in the enacted bill.

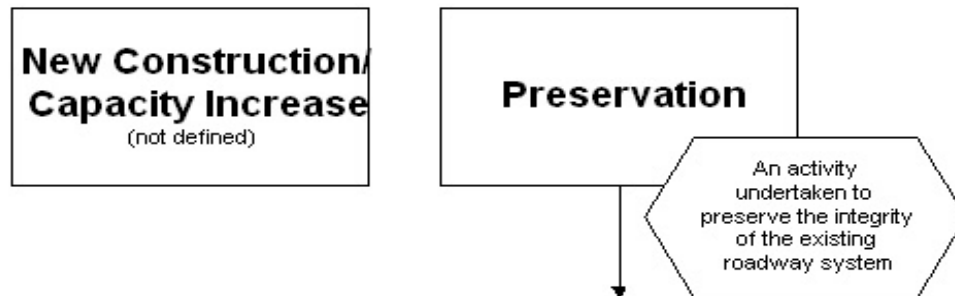
Fiscal Impact

The bill has no apparent impact on state or local costs or revenues.

² See House Fiscal Agency publication "The Padden Amendment" available from the House Fiscal Agency or at <http://www.house.mi.gov/hfa/PDFs/padden.pdf>

* = renumbered section.

PA 498 of 2002 (HB 5383) Chart 1



Preservation
Includes but not limited to:

- Maintenance (see Chart 2)
- Capital preventative treatments (means any preventive maintenance project on state trunkline highways that qualifies under the department's capital preventive maintenance program).
- Safety projects
- Reconstruction
- Resurfacing
- Restoration
- Rehabilitation
- Widening of less than 1 lane width
- Adding auxillary weaving, climbing, or speed change lanes
- Modernizing intersections
- Adding auxillary turning lanes of 1/2 mile or less

Preservation does not include:

- New construction of highways roads, streets, or bridges
- A project that increases highway capacity to accommodate [non-local] traffic
- Widening of a lane width or more
- Adding turning lanes more than 1/2 mile in length

PA 498 of 2002 (HB 5383) Chart 2

