



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 220 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Darwin L. Booher
Committee: Transportation

Date Completed: 11-20-14

CONTENT

The bill would amend Public Act 51 of 1951, the Michigan Transportation Fund law, to do the following:

- **Require the Michigan Department of Transportation (MDOT) to secure warranties for full replacement or appropriate repair guarantee for projects exceeding \$1.0 million and construction projects undertaken after the bill took effect.**
- **Require MDOT to generate, and make available to the public, an annual report listing all warranties secured and projects for which warranties were not secured.**
- **Permit MDOT to contract with private sector companies, as well as local road agencies, to perform road work, and include maintenance in the work that may be the subject of a contract.**
- **Require MDOT to solicit bids from a local road agency for work to be performed within that agency's jurisdiction.**

Pavement Project Warranties & Reporting

The Act governs the distribution of revenue collected from various transportation-related taxes and fees. The revenue is directed to several State transportation funds, including the State Trunk Line Fund; transportation programs; and local units of governments. Money deposited in the State Trunk Line Fund must 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 the amounts for the specified 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, where possible, to secure pavement warranties for full replacement or appropriate repair guarantee for contracted pavement projects that would exceed \$1.0 million in cost and projects for new construction or reconstruction that would begin after the bill's effective date.

The bill would require MDOT to compile and make available to the public an annual report listing all warranties secured and all pavement projects costing more than \$1.0 million where a warranty was not secured, and indicating whether any of the warranties were redeemed. The Department would have to make the report available to the public upon

request and publish the report on its website. The report would have to include at least all of the following information:

- The type of project.
- The cost or estimated cost of the project.
- The expected lifespan of the project.

MDOT Contracts for Road Work

The Act authorizes MDOT to enter into agreements with county road commissions and with cities and villages ("local road agencies", under the bill) to perform work on a highway, road, or street. An agreement may provide for any of the contracting parties to perform any of the work contemplated by the contract, including engineering services and the acquisition of rights-of-way, and for joint participation in the costs. ("Local road agency" would be defined as that term is defined in Section 9a: a county road commission, designated county road agency, city, or village that is responsible for the construction or maintenance of public roads within the State under the Act.)

Under the bill, MDOT could enter into these agreements with a local road agency or a private sector company, and the work contemplated by a contract could include maintenance.

The bill also would require MDOT, when entering into such contracts or contracts entered into under Section 11c, to solicit bids from a local road agency for work to be performed on a State trunkline highway within that local road agency's jurisdiction. (Section 11c generally requires all Federal aid construction projects, and all other projects of MDOT concerning highways, streets, roads, and bridges, whose cost exceeds \$100,000 for construction or preservation to be performed by contract awarded by competitive bidding.)

MCL 247.661 & 247.661c

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have a negative but indeterminate fiscal impact at the State and local levels in the short term, and an indeterminate fiscal impact in the long term.

Mandatory warranties would result in an indeterminate increase in costs in the short term. It is impossible to determine whether mandated warranties would result in overall savings in the long term that would offset the initial cost.

The bill would mandate warranties for full replacement guarantee or appropriate repair, where possible, 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.

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 a secured warranty. However, the up-front cost of obtaining a warranty could exceed any potential long-term savings and cost more than future repairs. Whether a warranty served to save costs in the long term likely would vary from project to project.

Project warranty reporting requirements under the bill would result in increased administrative costs at the State and local levels.

The bill's provisions authorizing MDOT to enter into agreements with local road agencies or private sector companies likely would have no fiscal impact, as it appears that MDOT already has this authority.

The fiscal impact of requiring MDOT to solicit bids from a local road agency is indeterminate and likely would be nominal.

Fiscal Analyst: Glenn Steffens