



Senate Fiscal Agency  
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## BILL ANALYSIS



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House Bill 5335 (Substitute H-2 as passed by the House)  
House Bill 5406 (Substitute H-2 as passed by the House)  
House Bill 5408 (Substitute H-1 as passed by the House)  
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

Date Completed: 4-25-18

**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.
- List the voting and nonvoting members of the Council and the length of their terms.
- Require the Governor to call the first Council meeting within 90 days after the effective date of the proposed Act.
- 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 (H-2)** 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 Department of Environmental Quality.
- List the members of the Council and the length of their terms.
- 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 (described below), and developing a template for an asset management plan by October 1, 2019.
- Allow State funding to be provided to drinking water, wastewater, and stormwater agencies and asset owners to implement Part 50 at a cost-share determined by the Water Asset Management Council.
- Require each drinking water, wastewater, and stormwater agency and asset owner to report annually to the Council how its capital improvement plans were meeting its investment goals.

- **Require the Department and each drinking water, wastewater, and stormwater agency and asset owner to keep accurate and uniform records on all work performed and funds spent for the purposes of Part 50.**

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

- **Require the Transportation Asset Management Council to be placed within the Michigan Infrastructure Council.**
- **Require the Transportation Asset Management Council to advise the Michigan Infrastructure Council on a statewide transportation asset management strategy and the processes and tools needed to implement that strategy.**
- **Require the Transportation Asset Management Council 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 provide the Council with a three-year asset management plan, and otherwise revise reporting requirements for local road agencies.**
- **Specify that a local road agency that was required to submit an asset management plan and that had not submitted it by October 1, 2024, would not receive funding under the law until it submitted a satisfactory plan.**
- **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.**

House Bill 5335 (H-2) would define "asset" as infrastructure related to drinking water, wastewater, stormwater, transportation, energy, or communications, including drinking water supply systems, wastewater and stormwater systems, drains, roads, bridges, broadband and communication systems, and electricity and natural gas networks. "Asset management" would mean an ongoing process of maintaining, upgrading, and operating physical assets cost effectively, based on a continuous physical inventory and condition assessment and investment to achieve performance goals.

House Bill 5408 (H-1) would take effect 90 days after it was enacted.

Each bill is tie-barred to the others.

### **House Bill 5335 (H-2)**

#### **Michigan Infrastructure Council**

The Michigan Infrastructure Council would be created within the Department of Treasury, and would consist of nine appointed voting members and nine nonvoting members. The voting members would have to represent the following:

- Asset management experts from the public and private sectors with knowledge of and expertise in the areas of planning, design, construction, management, operations and maintenance for drinking water, wastewater, and stormwater, transportation, energy, and communications.
- Financial and procurement experts from the public or private sector.
- Experts in regional asset management planning across jurisdictions and infrastructure sectors.

The nonvoting members would be the following, or their designees:

- The chairperson of the Water Asset Management Council.
- The chairperson of the Transportation Asset Management Council.
- The Director of the Department of Agriculture and Rural Development.
- The Director of the Department of Environmental Quality.
- The Director of the Department of Natural Resources.
- The Director of the Department of Technology, Management, and Budget.
- The Director of the Department of Transportation.
- The State Treasurer.
- The chairperson of the Michigan Public Service Commission.

Voting members of the Michigan Infrastructure Council would have to be appointed as follows:

- Five by the Governor.
- One by the Senate Majority Leader.
- One by the Speaker of the House of Representatives.
- One by the Senate Minority Leader.
- One by the House Minority Leader.

The voting members first appointed to the Council would have to be appointed within 60 days after the proposed Act's effective date.

The voting members would serve for terms of three years or until a successor was appointed, whichever was later, except as follows:

- Of the members first appointed by the Governor, one would serve for one year, one would serve for two years, and three would serve for three years.
- Of the remaining first appointed members, two would serve for one year and two would serve for two years.

A vacancy on the Council would have to be filled for the unexpired term in the same manner as the original appointment.

A member of the Council could be removed for incompetence, dereliction of duty, malfeasance during his or her tenure in office, or any other cause considered appropriate by the office for whom the appointment was made.

The Governor would have to call the first Council meeting within 90 days after the effective date of the proposed Act. At the first meeting, the Council would have to elect from its members a chairperson and other officers as it considered appropriate. After the first meeting, the Council would have to meet at least quarterly, or more frequently at the call of the chairperson or if requested by three or more members.

The Council would be subject to the Open Meetings Act and the Freedom of Information Act.

Members of the Council would serve without compensation. However, members could be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members.

The Departments with a member on the council would have to provide qualified administrative and technical staff to the Council. The Department of Technology, Management, and Budget would have to serve as the central data storage agency for the statewide database proposed by the Act.

## Michigan Infrastructure Council Duties

The Michigan Infrastructure Council would have to do all of the following:

- Develop a multiyear program, work plan, budget, and funding recommendation for asset management; update these every year; and provide these to the Governor and the Legislature by September 30 each year.
- Ensure that the work plan included an emphasis assessment that tracked progress on established performance goals.
- Prepare an annual report on the current statewide asset management assessment that tracked progress on established performance goals.
- Undertake research and advise on matters relating to asset management, including funding and financing models; best practices; information technology advancements; emerging technology to advance smart systems; right-sizing and cost-efficiencies; impediments to delivery; opportunities for greater coordination and collaboration across asset classes and owners; and aligning and linking State incentives to asset performance improvement goals, including cost control, asset management, operational efficiency, and cost-effective regional solutions.
- Within 180 days after its first meeting, evaluate the Regional Infrastructure Asset Management Pilot program created under Executive Directive 2017-1, and the findings of the 21st Century Infrastructure Commission created under Executive Order 2016-5, and develop and publish a three-year strategy for establishing a statewide integrated asset management system.

(Executive Directive 2017-1 required the Directors of the Michigan Departments of Environmental Quality, Natural Resources, Transportation, Technology, Management, and Budget, Talent and Economic Development, and Agriculture and Rural Development, the director of the Michigan Agency on Energy, and the director of the Michigan Public Service Commission to establish a Regional Asset Management Pilot. The Directive required these Directors to partner with selected pilot regions "to identify and agree upon existing data, assets, attributes, and data needs within the chosen region(s) that are representative of the assets statewide, and a regional structure for future implementation of data collection and evaluation efforts", and required the regional infrastructure pilot to "put forward recommendations on how the state can operationalize a statewide comprehensive asset management database and system".

Executive Order 2016-5 established the 21st Century Infrastructure Commission and required it to bring together infrastructure components for "all-inclusive strategic asset management, including short-term capital planning needs, long-term strategy, sharing of templates and best practices and recommended funding mechanisms in the areas of transportation (including mobility), water and sewer, wastewater treatment and drainage, energy, communications and any other necessary components identified by the Commission", among other things.)

The initial multiyear program, work plan, budget, and funding recommendation described above would have to include development of the strategy for establishing a statewide integrated asset management system. The strategy also would have to include all of the following:

- A determination of appropriate assets within the asset classes.
- Consistent data standards and definitions for each asset class.
- Identification and designation of a process to plan, analyze, and coordinate asset management across assets and asset owners at the regional level, which process could be implemented through regional planning agencies, the regional prosperity initiative

regions, or another approach that ensured all areas of the State were included and efforts were consistent with State and Federal requirements.

- Procedures for data storage, collecting, updating, and reporting.
- Recommendations related to the appropriate level of financial support for local asset data collection, local development of asset management plans, regional review and collaboration, and participation in an integrated statewide asset management system.
- A process to coordinate the planning efforts of the Transportation Asset Management Council, the Water Asset Management Council, the Michigan Public Service Commission, and the Michigan Economic Development Corporation, with other State-required asset management planning requirements.
- Coordination with the Transportation Asset Management Council and the Water Asset Management Council to ensure that training and education programs that addressed asset management principles and plan development, the use of the statewide database, ongoing user support, and State Department asset management requirements were coordinated across assets.
- Development of statewide performance goals for appropriate assets within each asset class and identification of regional and statewide progress toward meeting performance goals.
- Protocols that ensured data security and accuracy at the local, regional, and State levels.
- Development of consistent and coordinated State Department, Transportation Asset Management Council, and Water Asset Management Council asset management plan components and requirements including asset inventory, condition assessment, and uniform data; performance goals; revenue structure, investment strategy, and capital improvement plan; asset criticality and risk analysis; public engagement and transparency; self-assessment of asset management maturity; reports at an asset owner, regional, and statewide level; a resolution by the appropriate governing body approving the plan; and certification that asset management was being coordinated to the asset owners' best ability across asset classes and regionally.

Beginning three years after the proposed Act's effective date, the Council would have to start the second phase of the statewide system for asset management implementation and include predictive analytics to forecast asset condition; a public dashboard of State, regional, and local system performance across asset classes, including the appropriate and secure level of geospatial data and aggregated reporting; and the development and publication of a 30-year integrated infrastructure strategy that was updated every five years and included the following:

- Current statewide condition assessment and infrastructure priorities across asset classes, tracked progress on established performance goals, and net changes in asset value.
- Investment needs to reach targeted overall system ratings and performance goals, with a goal of leveling annual investments to long-term predictable amounts.
- Network intelligence in asset management planning and monitoring.

The multiyear programs, work plans, budgets, funding recommendations, annual reports, three-year strategy for establishing a statewide integrated asset management system, and second phase of the statewide system for asset management implementation would have to comply with both of the following:

- Not propose, recommend, or fund any government-owned broadband or telecommunications network to provide service to residential or commercial premises, except that this prohibition would not apply to State spending for a transportation purpose, connected vehicle communication technologies, or other transportation-related activities.
- To the extent government funding was proposed or recommended to subsidize non-government-owned broadband networks to expand service to residential or commercial

premises, require that proposals and recommendations be limited to areas unserved by broadband, be technology neutral, and include a competitive bid process that resulted in the award of the subsidy based on objective and efficient procedures.

The proposed Act would not authorize the Michigan Infrastructure Council to place any obligations or requirements on providers of telecommunications services, broadband services, or wireless services.

Any network or financial information provided to the Council by a provider of those services would be exempt from disclosure under the Freedom of Information Act, if it were marked as confidential or commercial information. The Council would have to preserve the confidentiality of this information.

### **House Bill 5406 (H-2)**

#### **Water Asset Management Council**

The Water Asset Management Council would be created within the Department of Environmental Quality (DEQ).

The Council would consist of nine voting members appointed by the Michigan Infrastructure Council. The members would have to represent the nonprofit, public, and private sectors and academia, including individuals representing interests such as drinking water, wastewater, and stormwater agencies, the State, regional government, local units of government, drain commissioners, and environmental organizations. At least one member would have to have professional engineering experience and a degree in engineering. The Water Asset Management Council could appoint the central data storage agency as an ex officio, nonvoting member. ("Central data storage agency" would mean the entity selected by the Council where the data collected are stored and maintained.)

Council members would serve for terms of three years. However, of the initial appointments to the Council, three would have to serve for one year, three for two years, and three for three years. A vacancy would have to be filled in the same manner as the original appointment.

A member of the Council could be removed for incompetence, dereliction of duty, malfeasance during his or her tenure in office, or any other cause considered appropriate by the Michigan Infrastructure Council.

At the first meeting of the Water Asset Management Council, the Council would have to select a chairperson from among its members. The Council could appoint subcommittees whose members would serve as needed to provide research on issues and projects as determined by the Council.

The Department would have to provide qualified administrative staff and technical assistance to the Council.

#### **Water Asset Management Council Duties**

The Water Asset Management Council would have to do both of the following:

- Advise the Michigan Infrastructure Council on a statewide water asset management strategy and the processes and tools needed to implement a strategy for all drinking water, wastewater, and stormwater agencies and asset owners.

- Promote and oversee the implementation of the recommendations from the Regional Infrastructure Asset Management Pilot created under Executive Directive 2017-1 at a State level related to drinking water, wastewater, and stormwater infrastructure.

The Water Asset Management Council also would have to develop a template for an asset management plan by October 1, 2019, for uses described in the bill by local drinking water, wastewater, and stormwater agencies and asset owners submitting asset management plans to the Council for approval. The bill states that, at a minimum, the template "should" ensure that local asset management plans included all of the following components:

- An asset inventory that included the location, material, size, and condition of the assets in a format that allowed for digital mapping, subject to a requirement that all quality control standards and protocols be consistent with existing Federal requirements and regulations and existing government accounting standards.
- A level of service analysis that included desired levels of service, which could vary among assets under the local agency's jurisdiction, and performance goals of the assets to help the system achieve reliability, responsiveness, safety, capacity, environmental impacts, cost and affordability, and compliance with law.
- A risk of failure analysis that identified the probability and criticality of failure of the most critical assets and any contingency plans.
- Anticipated revenue and expenses, including a description of all revenue sources and anticipated receipts for the period of the asset management plan, and expected infrastructure repair and replacement expenses, including planned improvements or capital reconstruction.
- A description of how the agency planned to coordinate with other asset owners, including neighboring jurisdictions, to minimize duplication of effort with regard to infrastructure preservation and maintenance.
- Proof of acceptance, certification, or adoption by the jurisdiction's governing body.
- A performance outcomes analysis that determined how the investment strategy would achieve the desired levels of service and performance goals.

The asset management plan would have to include steps necessary to ensure that asset conditions met or achieved stated goals, including a description and explanation for any gap between achievable condition and performance through the investment strategy and desired goals.

#### Submission & Review of Plans

By October 1, 2019, the Water Asset Management Council would have to establish a schedule for submission of asset management plans for drinking water, wastewater, and stormwater agencies and asset owners that included all of the following:

- Beginning October 1, 2020, each drinking water, wastewater, and stormwater agency and asset owner would have to submit an asset management plan to the Council.
- The submitted asset management plans would have to cover and be valid for a minimum of three years and would have to be consistent with the template provided by the Council.
- A drinking water, wastewater, or stormwater agency or asset owner that was required under the bill to have an approved asset management plan would have to implement it by October 1, 2024.

The Council would have to review the submitted asset management plans within six months of receipt. The Council would have to compare the plans to the minimum components required by the bill and the template provided by the Council, and determine if the plans were in compliance with those standards. If the Council determined that a plan did not meet the

established standards, it would have to seek concurrence from the DEQ. If the Department concurred, the Council would have to require the entity that submitted the asset management plan to meet acceptable standards within six months of the submittal.

#### Annual Report

The Water Asset Management Council would have to submit annually to the Michigan Infrastructure Council a report on asset condition and investment that included a summary analysis of the asset management plans received from drinking water, wastewater, and stormwater entities. The report also would have to include recommendations on drinking water, wastewater, and stormwater condition goals and analysis of how the utilities were meeting those goals. The analyses contained in the report would have to be consistent with the Council's asset management process and be reported consistent with categories established by the Council.

#### Training Needs

The Water Asset Management Council would have to identify training needs to develop proficiency in using a multi-asset management system for drinking water, wastewater, and stormwater agencies and asset owners, and training to identify asset system conditions based on a statewide asset condition measure. The Council would have to coordinate and collaborate with the Transportation Asset Management Council on planning, reporting, and training.

#### Additional Provisions

State funding could be provided to drinking water, wastewater, and stormwater agencies and asset owners to implement Part 50 at a cost-share determined by the Water Asset Management Council. Funding necessary for the DEQ to support the activities described in these provisions would have to be provided by an annual appropriation.

Each drinking water, wastewater, and stormwater agency and asset owner would have to report annually to the Council, consistent with current accounting procedures, how its capital improvement plans were meeting its investment goals, to ensure consistency with its asset management plans.

The DEQ and each drinking water, wastewater, and stormwater agency and asset owner would have to keep accurate and uniform records on all work performed and funds spent for the purposes of these provisions, according to the procedures developed by the Michigan Infrastructure Council.

The Water Asset Management Council would have to prepare annually a report on the activities conducted during the preceding year and the expenditure of money related to the processes and activities identified by the Council. The report also would have to include an overview of the activities identified for the succeeding year. The Council would have to submit this report to the Michigan Infrastructure Council and the Legislature by May 2 of each year.

### **House Bill 5408 (H-1)**

#### Transportation Asset Management Council

In order to provide a coordinated, unified effort by various road agencies within Michigan, the Michigan Transportation Fund law created the Transportation Asset Management Council within the State Transportation Commission. Under the bill, upon creation of the Michigan



Infrastructure Council, the Transportation Asset Management Council would have to be placed within the Michigan Infrastructure Council.

Under the law, the Transportation Asset Management Council must advise the Commission on a statewide asset management strategy and the processes and tools needed to implement that strategy, beginning with Federal-aid eligible highway systems, and, once completed, the Council must continue with county road and municipal systems, in a cost-effective, efficient manner.

The bill instead would require the Council to advise the Michigan Infrastructure Council on a statewide transportation asset management strategy and the processes and tools needed to implement that strategy, beginning with the Federal-aid eligible highway system and infrastructure assets that have an impact on system performance, safety, or risk management, including signals and culverts.

#### Member Removal

The bill would retain the current membership of the Council, which consists of 10 voting members appointed by the State Transportation Commission.

Under the bill, a member of the Transportation Asset Management Council could be removed for incompetence, dereliction of duty, malfeasance during his or her tenure in office, or any other cause considered appropriate by the Michigan Infrastructure Council.

#### Transportation Asset Management Council Committees

The Council may appoint a technical advisory panel whose members must be representatives from the transportation construction associations and related transportation road interests. The Council must select members to the technical advisory panel from names submitted by the transportation construction associations and related transportation road interests. The technical advisory panel members must be appointed for three years. The Council must determine the research issues and assign projects to the panel to assist in the development of statewide policies. The panel's recommendations must be advisory only and are not binding on the Council.

The bill would delete these provisions.

Under the bill, the Council could appoint subcommittee or technical advisory committees whose members would have to serve as needed to provide research on issues and projects as directed by the Michigan Infrastructure Council. A recommendation from a subcommittee or an appointed technical advisory committee would be advisory only and would not be binding on the Michigan Infrastructure Council.

#### Transportation Asset Management Council Duties

The Transportation Asset Management Council would have to promote and oversee the implementation of recommendations from the Regional Infrastructure Asset Management Pilot Program on a statewide level as the program relates to roads, bridges, and related transportation infrastructure.

By October 1, 2019, the Council would have to develop a template for an asset management plan for use by local road agencies responsible for 100 or more certified miles of road and require its submission to the Council. By the same date, the Council also would have to establish a schedule for the submission of asset management plans by local road agencies

that ensured that one-third of those agencies submitted an asset management plan each year. The template required by the bill would have to include all of the following:

- Asset inventory, including the location, material, size, and condition of the assets, in a format that allowed for digital mapping.
- Performance goals, including the desired condition and performance of the assets, which would have to be set by the local road agency.
- Risk of failure analysis, including the identification of the probability and criticality of a failure of the most critical assets and any contingency plans.
- Anticipated revenue and expenses, including a description of all revenue sources and anticipated receipts for the period covered by the asset management plan and expected infrastructure repair and replacement expenses, including planned improvements and capital reconstructions.
- Performance outcomes, including a determination of how the local road agency's investment strategy would achieve the desired levels of service and performance goals and the steps necessary to ensure that asset conditions met or achieved stated goals and a description and explanation of any gap between achievable conditions and performance through the investment strategy and desired goals.
- A description of how the local road agency planned to coordinate with other infrastructure owners, including neighboring jurisdictions and utilities, to minimize duplication of effort regarding infrastructure preservation and maintenance.
- Proof of acceptance, certification, or adoption by the local road agency's governing body.

Performance goals could vary among asset classes under the local road agency's jurisdiction. If a local road agency had jurisdiction over roads or bridges that were designated as part of the Federal National Highway System, the performance goals for that portion of the system would have to be consistent with established Federal performance targets.

#### Reporting Requirements; Multiyear Program

Under the law, the Michigan Department of Transportation (MDOT), each county road commission, and each city and village in Michigan must annually submit a report to the Transportation Asset Management Council. The bill would require those entities to submit to the Council annually a report on infrastructure conditions and investment, instead.

The law requires the report to include a multiyear program developed through the asset management process described in the law. Among other things, both of the following apply to a multiyear program:

- Projects contained in MDOT's annual multiyear program must be consistent with the Department's asset management process.
- Projects contained in the annual multiyear program of each local road agency must be consistent with the asset management process of that local road agency.

Under the bill, all of the following would apply to a multiyear program:

- Projects contained in MDOT's annual multiyear program would have to be consistent with the Department's asset management process and asset management plan.
- Projects contained in the annual multiyear program of each local road agency responsible for 100 or more certified miles of road would have to be consistent with the asset management process and asset management plan of that local road agency.
- Projects contained in the annual multiyear program of each local road agency responsible for less than 100 certified miles of road would have to be consistent with the asset

management process of that local road agency and reported consistent with categories established by the Council.

#### Asset Management Plan Submission & Review

Beginning October 1, 2020, each local road agency responsible for more than 100 certified miles of road would have to begin submitting an asset management plan to the Council according to the three-year schedule. The plan would have to cover a period of at least three years, and would have to be consistent with a template provided by the Council. A local road agency that was required to submit a plan and had not submitted it by October 1, 2024, would be out of compliance with the bill and would not receive funding under the law until it submitted a plan to the Council that satisfied the bill's requirements.

The Council would have to review a submitted asset management plan within six months after its receipt. The Council would have to compare the plan to the minimum requirements of the bill and the template created by the Council, and determine whether the plan was in compliance with those standards. If the plan did not meet those standards, the Council would have to seek concurrence from MDOT that the plan did not meet the Council's standards. If the Department concurred, the Council would have to require the local road agency to revise its plan to conform to the standards within six months after notifying the local road agency that the plan did not meet the standards.

Beginning October 1, 2025, a local road agency that was responsible for 100 certified miles of road that could not demonstrate that it had made progress toward achieving the condition goals described in its asset management plan for its Federal-aid eligible county primary road system or city major street system, as applicable, could not shift 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. A local road agency could submit a revised plan to the Council.

#### Annual Report by Council

The law requires an annual report to be prepared by the staff assigned to the Transportation Asset Management Council regarding the results of activities conducted during the preceding year and the expenditure of money related to the processes and activities identified by the Council. The report also must include an overview of the activities identified for the succeeding year. The Council must submit the report to the State Transportation Commission, the Legislature, and the transportation committees of the House and Senate by May 2 of each year.

In addition, under the bill, the report would have to include a summary analysis of the asset management plans and annual reports received from local road agencies, a determination of how investments were achieving desired levels of service and performance goals, an identification of any additional steps that could be needed to achieve desired levels of service and performance goals, and an overview of the activities identified for the succeeding year. The Council would have to submit this report to the Michigan Infrastructure Council as well as the State Transportation Commission, the Legislature, and the transportation committees of the House and Senate by May 2 of each year.

#### Additional Provisions

The bill specifies that, except as otherwise provided, costs incurred for data collection, analysis, or submittal, other than costs covered by the Council for the Federal-aid eligible highway system, would be the responsibility of the owner of the data. A local road agency

could request that the region collect data on local roads or streets within that region. The region would have to determine where to collect local road or street data to spend its remaining data collection money based on requests received from local road agencies.

Under the law, funding necessary to support the described activities must be provided by an annual appropriation from the Michigan Transportation Fund to the State Transportation Commission. The bill specifies that, beginning on its effective date, the annual appropriation would have to be allocated to the Michigan Infrastructure Council and used to support the activities described in the bill.

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)**

The bill 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 outlined in the bill. 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 (H-2)**

The bill 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 units of government. Under the bill, the DEQ would experience some increased costs associated with providing administrative and professional support to the Water Asset Management Council. Absent a separate additional appropriation, these costs and responsibilities would be borne by existing DEQ staff resources.

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 of government, generally) in creating 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 by the Legislature. 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 (H-1)**

The bill 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, under the proposed Michigan Infrastructure Council legislation. 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 be required to submit a three-year asset management plan to the TAMC, another third the following year, etc. The costs associated with these increased reporting requirements likely would vary from local agency to local agency, as it some local agencies 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. By October 2025, 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 for a failure to comply with the bill. An initial review of city/village road miles indicates that the following cities also could be subject to these penalties for a failure to comply with the bill: 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.

Fiscal Analyst: Cory Savino  
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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.