

Legislative Analysis



LOCAL GRADE SEPARATION GRANT PROGRAM

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4523 as introduced
Sponsor: Rep. Phil Green

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

House Bill 4524 as introduced
Sponsor: Rep. Darrin Camilleri

Committee: Transportation
Complete to 6-14-21

SUMMARY:

House Bills 4523 and 4524 would amend 1951 PA 51 to require the Michigan Department of Transportation (MDOT) to create and operate a local grade separation grant program for the separation of motor vehicle traffic and railroad traffic. House Bill 4524 would describe the program, create the Local Grade Separation Fund, and require certain reports. House Bill 4523 would require funding prioritization for projects meeting certain conditions, such as proximity to specified facilities or institutions.

House Bill 4524 would require MDOT to create and operate a local *grade separation* grant program for the separation of motor vehicle traffic and railroad traffic. Under the program, MDOT would provide grants to cities, villages, and county road commissions for the separation of motor vehicle traffic and railroad traffic (e.g., to build overpasses or underpasses at railroad/highway intersections).

Grade separation would mean an intersection of a railroad and roadway at different levels, with the railroad either above or below the highway (i.e., going over the highway by way of an overpass or going under it by way of an underpass).

An application for funds from the program would have to be made on a form approved by MDOT and contain the information required by MDOT. An application could be made at any time as determined by MDOT.

MDOT would have to establish a review process for considering funding applications that includes the parameters for prioritizing the fund of grant applications proposed by HB 4523 (described below). No later than 180 days after receiving an application, MDOT would have to notify the applicant in writing whether the application was approved or rejected. Before releasing any grant funds, MDOT would have to enter into a written agreement with the funding recipient providing for both of the following:

- The complete details of the grade separation project.
- A local, private, or federal match of at least 20% of the cost of the grade separation project.

In addition, before awarding grants under the program, MDOT would have to publish on its website the parameters proposed by HB 4523.

Report

By December 1 of each year in which it received funding applications, MDOT would have to report to the House and Senate appropriations committees and the House and Senate standing committees on transportation on the use of funds from the local grade separation grant program, including at least all of the following:

- The number of funding applications received.
- The name of each city, village, or county road commission applying for funding and whether each application was approved or denied.
- The amount of local match for each award.

Local Grade Separation Fund

The bill would create the Local Grade Separation Fund in the state treasury and allow the state treasurer to receive money or other assets from any source for deposit into the fund. The state treasurer would direct investment of the fund and credit to it interest and earnings from those investments. Money in the fund at the close of the fiscal year would remain in the fund and not lapse into the general fund. MDOT would be the administrator of the fund for auditing purposes.

MDOT would expend money from the fund, upon appropriation, only to fund and operate the local grade separation grant program described above.

Proposed MCL 247.661i

House Bill 4523 would require MDOT to develop parameters for prioritizing the funding of grant applications for grade separation projects under the program proposed by House Bill 4524. The parameters would have to give priority to projects for railroad crossings that meet one or more of the following conditions:

- Are within 10 miles of a vicinity with an emergency planning zone, such as a nuclear power plant or chemical plant.
- Are within five miles of a railyard.
- Are within five miles of a manufacturing facility
- Have proximity to a level I or level II trauma center, adult assisted-living facility, school, or courthouse.

Before awarding grants under the program proposed by House Bill 4524, MDOT would have to publish the parameters described above on its website.

Proposed MCL 247.661j

BACKGROUND:

MDOT has regulatory authority over these crossings under the Railroad Code. MDOT has authority to require safety improvements to crossings (lights and gates) and the authority to order that a crossing be closed if it is determined that the crossing cannot be made reasonably safe. MDOT typically works with the local road agency before ordering that a crossing be closed; there has been only one instance in which MDOT ordered a crossing closed (Highland Township) with opposition of the local road authority.

MDOT also has authority to order a rail grade separation but has never done so. The cost of such separations is so great that it is not reasonable to order them without an identified source of funding.

If a local road agency requests the establishment of a rail grade separation, the Railroad Code provides for the requesting party to pay 100% of the cost of the separation.¹ The cost of such separations varies based on a number of local factors, but can range from \$10.0 million to \$25.0 million.

FISCAL IMPACT:

1951 PA 51, often referred to simply as “Act 51,” governs state appropriations for most Michigan transportation programs. Among other things, Act 51 establishes the Michigan Transportation Fund (MTF) as the main collection and distribution fund for state restricted transportation revenue. Act 51 also establishes other restricted transportation funds or accounts dedicated for specific targeted transportation programs.

Section 10 of Act 51 directs the annual appropriation of MTF revenue, including to the various restricted transportation funds and accounts. The distribution formula established in section 10 is described in HFA Fiscal Brief, “MTF Distribution Formula to Local Road Agencies.”²

House Bill 4824 would add new section 11i to Act 51 to create and define a new categorical or targeted transportation program, the local grade separation grant program, and related restricted fund, the Local Grade Separation Fund. The program and fund are described in detail above. Although the bill creates a new program and a new fund, neither it nor its companion bill, House Bill 4523, establishes a source of fund revenue. Specifically, neither bill earmarks MTF revenue for the program. As a result, the bills as introduced would have no direct fiscal impact on the state or on local units of government.

If a source of state revenue were identified and funds appropriated for the program, the bills would effectively establish a program for benefit to qualifying local units of government.

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■ 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.

¹ <http://legislature.mi.gov/doc.aspx?mcl-462-307>

² “Fiscal Brief: MTF Distribution Formula to Local Road Agencies – Update,” March 3, 2021. Prepared by William E. Hamilton, Senior Fiscal Analyst. This publication describes the factors that govern the distribution of MTF revenue to local road agencies (county road commissions and cities and villages).
https://www.house.mi.gov/hfa/PDF/Alpha/Fiscal_Brief_MTF_Distribution_Formula_to_LRA_Mar2021_Update.pdf