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House Bill 4722 as introduced

First Analysis (6-15-87)

Sponsor: Rep. Maxine Berman
Committee: Transportation

THE APPARENT PROBLEM:

Public Act 438 of 1982 established a temporary formula for the distribution of fuel and weight taxes deposited in the Michigan Transportation Fund, and set up a task force to recommend a new distribution formula. The distribution formula has been extended several times, most recently until June 18, 1987. In addition to a recommendation for a new distribution formula, an ad hoc legislative committee has been working on a series of recommendations for alternative ways to pay for road construction and other transportation needs. One proposal calls for allowing local governments to assess "impact fees" on people responsible for new land development when that development necessitates public improvements such as road or sidewalk construction or upgrading.

THE CONTENT OF THE BILL:

The bill would create a new act to allow a local government to undertake the construction or repair of roads, sidewalks or similar public improvements and defray the cost by levying and collecting an impact fee from the person responsible for the new land development which made the improvement necessary. The governing body of the local unit would have to adopt an ordinance or resolution stating the nature and location of the development, the name of the person responsible for the development, the nature of the proposed public improvement, its cost, the portion of the cost to be paid by the person responsible, and the schedule and method of payment. The local government would have to adopt an impact fee formula that resulted in fees not exceeding a pro rata share of the reasonably anticipated cost of the public improvement. If the local government did not require the impact fee to be paid before issuing a building permit for the land development, it would have to require the responsible person to provide sufficient bond, security or other guarantee to secure the payment of the fee. Impact fees collected by a local government would have to be kept in a fund separate from other revenues.

The bill would state that it could not be interpreted as to repeal, modify or limit laws in effect concerning general abutting property law or a special or local assessment or abutting property law enacted for the benefit of a local unit of government. The bill would be considered to create an additional or alternative method for a local unit of government to collect fees for the purpose of defraying the cost of public improvements necessary because of new land development.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

A recent Coopers & Lybrand transportation fiscal study for the legislature projected a shortfall of $17.7 billion in the amount of money needed to meet transportation funding requirements statewide through 1994. In addition to the questions regarding state distribution of existing transportation revenue sources, there exists a critical need for alternative sources of revenue for transportation purposes. Local governments, in particular, lack sufficient means of financing the construction, maintenance and upgrading of roads. The bill would allow local governments to assess an "impact fee" on developers whose new land developments necessitated road construction projects. The impact fee, already in use in several other states, is, in effect, a user fee paid by those who would benefit from proposed road improvements. For example, a developer proposing to build a shopping mall would be assessed a fee to help defray the costs of additional traffic lanes added to the roads approaching the property. The concept of impact fees is very similar to that of special assessments, for which there is ample precedent in Michigan law. Rather than levy additional property taxes on the population as a whole, why not allow local governments to assess the costs of such traffic improvements against those who would most benefit?

Against:

Impact fees assessed against developers of property would constitute a hidden tax, which would no doubt result in increased costs to users and consumers of the developed property. The fees would apply not just to lucrative new commercial developments, but also to new residential subdivisions, which would add considerably to the cost of each home built. In some areas, this could force up the cost of housing to the point where it becomes scarce. Further, some contend that the fees would be a discriminatory tax which could be challenged on constitutional grounds. The imposition of impact fees would raise the cost of doing business in Michigan, thus discouraging economic development just when state policymakers are making concerted efforts to improve the business climate.

POSITIONS:

The Michigan Municipal League supports the concept of the bill. (6-12-87)

The Michigan Townships Association has not yet taken a position on the bill. (6-12-87)

The Michigan Association of Homebuilders opposes the bill. (6-12-87)