



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 364 (Substitute S-1 as reported)
Sponsor: Senator Dale W. Zorn
Committee: Transportation and Infrastructure

Date Completed: 9-26-19

RATIONALE

According to the Michigan Department of Transportation (MDOT), Michigan has over 4,000 highway-rail grade crossings throughout the State. These crossings, where a roadway and a railway intersect, can create traffic congestion and safety concerns, especially as the average freight train length exceeds one mile and continues to increase each year. Moreover, serious injury or death can result if a train blocks first responders from reaching the scene of an accident or medical emergency.

Grade separation, in which highway-rail grade crossings are placed at different heights by constructing a roadway overpass or underpass, is a method used in other states to decrease the danger of these crossings. Some states, such as Indiana and Illinois, have taken action to separate highway-rail grade crossings by using grant funds. Michigan currently does not have a program focused on grade separation. Accordingly, it has been suggested that the Legislature create a program for the separation of rail and roadway intersections.

CONTENT

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

- Require the Department of Transportation (MDOT) to establish a local grade separation grant program, and to provide grants to cities, villages, and county road commissions.**
- Require MDOT to establish a review process for considering applications for grant money and to notify applicants whether it was approved or rejected within 120 days after receiving the application.**
- Require MDOT, before releasing local grade separation grant funds, to enter into an agreement with the recipient, and specify the provisions that would have to be included in the agreement.**
- Require MDOT to issue a report to the Legislature pertaining to the use of funds from the grant program.**
- Create the "Local Grade Separation Fund" within the State Treasury, and provide for the disposition of money from the Fund.**

"Grade separation" would mean an intersection of a railroad and roadway at different levels with the railroad either above or below the highway.

Local Grade Separation Grant Program

Specifically, MDOT would have to create a local grade separation grant program for the

separation of motor vehicle and railroad traffic in Michigan. The Department would have to provide grants to cities, villages, and county road commissions in the State. An application for funds from the program would have to be made on a form approved by MDOT and would have to contain the information MDOT required. An application could be made at any time as determined by MDOT.

Application Review Process; Agreement

The Department would have to establish a review process for considering funding applications. Within 120 days after receiving an application, MDOT would have to notify the applicant in writing whether the application was approved or rejected. If MDOT failed to do so within 120 days after receiving it, the application would be considered approved.

Before releasing grant funds, MDOT would have to enter into a written agreement with the funding recipient. The agreement would have to provide complete details of the grade separation project and a local, private, or Federal match of at least 20% of the cost of the grade separation project.

Report to the Legislature

For each year in which MDOT received applications, it would have to report by December 1 to the standing committees of the Senate and the House of Representatives with primary jurisdiction over issues pertaining to transportation and the Senate and House of Representatives Appropriations Committees on the use of funds from the program. The report, at a minimum, would have to include 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 Local Grade Separation Fund would be created within the State Treasury. The State Treasurer could receive money or other assets from any source for deposit into the Fund, would have to direct the investment of the Fund, and would have to credit to it interest and earnings from Fund investments. Money in the Fund at the close of the fiscal year would have to remain in the Fund and would not lapse into the General Fund.

The Department would have to be the administrator of the Local Grade Separation Fund for auditing purposes. Additionally, the Department would have to spend money from the Fund, upon appropriation, only to fund and operate the local grade separation grant program.

Proposed MCL 247.11i

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

In emergency situations, firefighters, police officers, and emergency medical services are expected to arrive on the scene as soon as possible, ready to handle the situation and render aid to victims at the scene. A quick response from emergency medical services can mean the difference between

life or death for someone in need of medical attention. Any delay in response times should be considered a public safety issue.

According to testimony before the Senate Committee on Transportation and Infrastructure, railway-roadway grade crossings are a common cause of delays for first responders when they are en route to an emergency situation. For example, in the City of Monroe, at least three railway-road grade crossings occasionally prevent first responders from traveling to the scene of an emergency in an appropriate amount of time. These events are a public safety issue that could lead to the death of a person in need of medical attention. In 2018, Operation Lifesaver, a nonprofit organization focused on education related to highway-rail crossings, ranked Michigan 15th worst in the nation for the number of collisions, injuries, and fatalities at highway-rail grade crossings. The Local Grade Separation Fund could assist in the grade separation at these intersections, which would benefit first-responder response times and the community.

Supporting Argument

Michigan law requires school buses to stop for all railroad crossings. This requirement protects the occupants on the bus, since passengers on a high-occupancy vehicle may not have enough time to exit the bus if it is stuck on railroad tracks. According to testimony before the Senate Committee on Transportation and Infrastructure, while this requirement provides for passenger safety, over half of all rear-end crashes to school buses happen at railroad crossings because of this requirement. In addition, the results of a bus's failure to abide by the requirement can be catastrophic. This occurred in Texas in May 2019 when a bus driver failed to stop at a crossing and a train struck the bus. The accident resulted in the death of one passenger and severe injuries to two others. Railway-roadway grade crossings present dangers to bus drivers and passengers on board. Accordingly, the Michigan Legislature should create the Local Grade Separation Fund to remedy the dangers of railway-roadway crossings, especially in areas with higher volumes of traffic.

Opposing Argument

Among other things, the bill would require MDOT to establish a review process for considering fund applications for the grants established by the bill. If MDOT failed to notify an applicant whether an application was approved or rejected within 120 days after receiving it, the application would be approved. This "shot clock" could be an insufficient amount of time for the appropriate evaluation of applications. Instead, the timeframe for a response from MDOT should be negotiated between MDOT and the applicant.

Legislative Analyst: Tyler VanHuysse

FISCAL IMPACT

The Department of Treasury would incur minimal administrative costs to create and maintain the Fund. The ongoing administrative cost of less than \$100 would be absorbed within current appropriations.

Otherwise, as currently drafted, the bill would have no fiscal impact on State or local government. Although the bill would create the Fund for the specific purpose of distributing matching grants to local agencies (county road commissions, cities, and villages) for rail grade separation projects, the bill would not appropriate any money for the Fund. Should it receive an appropriation in the future, the cost to the state, and the positive fiscal impact to individual local units whose applications for funding were approved, would be equal to the amount of funding appropriated.

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.