

LOCAL GRADE SEPARATION GRANT PROGRAM

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<http://www.house.mi.gov/hfa>

House Bill 4523 (proposed substitute H-1)
Sponsor: Rep. Phil Green

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

House Bill 4524 (proposed substitute H-1)
Sponsor: Rep. Darrin Camilleri

Committee: Transportation
Complete to 6-21-21

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).

A funding application for the program would have to be made on a form approved by MDOT and would have to contain information required under House Bill 4523 and 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 approval of funding applications proposed by HB 4523. 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. Grant funds would have to be used within three years. Grant funds could be used for any stage of design and construction related to either of the following:

- A grade separation project.
- A project that improves traffic at a rail crossing without a full grade separation, such as construction of a rail siding or spur.

Before releasing grant funds, MDOT would have to enter into a written agreement with the funding recipient that provides for both of the following:

- The complete details of the grade separation or other rail crossing traffic improvement project.
- A local, private, or federal match of at least 20% of the cost of the grade separation or other rail crossing traffic improvement 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 that submitted a funding application and whether each application was approved or denied.
- The amount of local match for each approved funding application.

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 approval of funding applications for *railroad crossing projects* under the program proposed by House Bill 4524. The parameters would have to prioritize projects for railroad crossing projects that meet one or more of the following conditions and give a higher priority to those meeting a comparatively greater number of these conditions:

- The project is within 10 miles of a vicinity with an emergency planning zone, such as a nuclear power plant or chemical plant.
- The project is within five miles of a railyard.
- The project is within five miles of a manufacturing facility
- The project is within five miles of a level I to level III trauma center, adult assisted-living facility, school, or courthouse.
- The project has an above-average vehicle traffic volume, as determined by MDOT.
- Any other condition MDOT considers relevant.

Railroad crossing project would mean either a grade separation project or a project that improves traffic at a rail crossing without a full grade separation (such as construction of a rail siding or spur)—i.e., the allowed uses of grant funds as provided by House Bill 4524.

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

A funding application for a road crossing project would have to include a list of the North American Industry Classification System (NAICS) designations for all businesses within a five-mile radius of the project.

Proposed MCL 247.661j

The bills are tie-barred to one another, which means that neither could take effect unless both were enacted.

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

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

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.

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