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BILL ANALYSIS

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Senate Bill 379 (as passed by the Senate)
Sponsor: Senator Aric Nesbitt
Committee: Transportation and Infrastructure

Date Completed: 9-23-21

RATIONALE

Michigan's Constitution grants the Legislature the authority to issue bonds for the purpose of transportation funding.[1] Through the Michigan Transportation Fund law, the Legislature delegated that authority to the State Transportation Commission (STC) and the STC has granted the Michigan Department of Transportation (MDOT) authority to issue bonds for a variety of transportation programs. The law requires the STC to provide to the full appropriations committees of each house of the Legislature a 30-day notice that includes the projects for which a bond will be issued. The law also establishes a limit on MDOT's debt service payments on bonds. Some people believe that these provisions do not offer enough oversight concerning the use of bonds. Accordingly, it has been suggested that the Legislature adopt increased measures to oversee the issuance of bonds for transportation funding purposes.

CONTENT

The bill would amend the Michigan Transportation Fund law to do the following:

-- **Prohibit notes or bonds authorized under the law from being issued until after the STC presented its resolution authorizing the notes or bonds to the Legislature and the Legislature approved it by concurrent resolution adopted by two-thirds of each house of the Legislature.**
-- **Require a resolution of the STC to amend an initial resolution authorizing bonds or notes to be approved by concurrent resolution adopted by two-thirds of each house of the Legislature.**
-- **Allow the STC or the Legislature to withdraw unused bond authorization by resolution.**
-- **Modify, from 50% to 20%, the limit for which taxes imposed for transportation funding can be used for debt service on the total amount of bonds and notes issued for transportation purposes.**
-- **Require MDOT to submit a report on October 1 of each year, and an updated report within 30 days after issuing new bonds, on transportation debt service to the members of the House of Representatives and Senate Appropriations Committees and transportation subcommittees, and committees with jurisdiction over transportation.**

Legislative Authorization for Issuance of Bonds

Under the law, the STC may borrow money and issue notes or bonds for specified purposes, including to pay all or any portion of or to make loans, grants, or contract payments to pay all or any portion of capital costs as described in Article IX, Section 9 of the State Constitution, among other purposes. (Article IX, Section 9 of the State Constitution requires taxes imposed directly or

[1] MI Const. art IX, § 9.

indirectly on fuels for motor vehicles to be used exclusively for transportation purposes as specified in that section.)

The law prohibits the notes or bonds from being issued until after the STC gives authorization by resolution. The resolution must contain an irrevocable pledge providing for the payment of the principal and interest on the notes or bonds from money that is restricted as to use by Article IX, Section 9; a brief statement describing the projects for which the notes or bonds are to be issued; the estimated cost of the projects or refunding or refinancing; and the detail of the notes and bonds, including the maturity date or dates and maximum interest rate of the notes or bonds.

Under the bill, the notes or bonds could not be issued until after the STC's authorization by resolution and until the STC presented the resolution to the Legislature, and the Legislature approved it by concurrent resolution adopted by two-thirds of each house of the Legislature.

The law specifies that if, after the issuance of notes or bonds, the STC determines that a project for which the notes or bonds are to be issued should be changed, it must amend the resolution authorizing the bonds by adopting another resolution after providing notice of its intent to do so to the Senate and the House of Representatives Appropriations Committees. The bill would require this resolution to be approved by concurrent resolution adopted by two-thirds of each house of the Legislature.

Under the bill, the STC could withdraw unused bond authorization by resolution. The Legislature also could withdraw unused bond authorization by concurrent resolution adopted by a majority of each house of the Legislature.

Total Amount of Bonds & Notes

Under the law, the total amount of bonds and notes issued for transportation purposes as described above must not exceed an amount as will be serviced as to the maximum principal and interest requirements by a sum equal to 50% of the total of the amount of money received from taxes that is restricted for use by the State Constitution as described above and that is deposited in the State Treasury to the credit of the State Trunk Line Fund during the State fiscal year immediately preceding the issuance of the bonds or notes. Under the bill, the total amount of bonds and notes issued could not exceed 20% of the total amount of money received from taxes that was restricted and deposited as described above.

Report on Transportation Debt Service

The bill would require MDOT to submit a report on October 1 of each year, and an updated report within 30 days after issuing a new bond as described below, on transportation debt service to the members of the House of Representatives and Senate Appropriations Committees and transportation subcommittees, and committees with jurisdiction over transportation, that included, at a minimum, the following:

-- The percentage of money that was restricted as to use by Article IX, Section 9 of the State Constitution that was spent on debt servicing for the fiscal year.
-- For all bonds issued by the State for transportation purposes, including those described in Section 18b(1)(b) and bonds issued under Section 122 of the Aeronautics Code of the State of Michigan, information that includes a listing of bonds by series, the remaining principal for each bond, and the anticipated payment schedule for each bond.

(Section 18b(1)(b) allows the STC to borrow money and issue notes or bonds to pay the principal or the principal and interest on notes and, if the Commission considers refunding to be expedient, to refund bonds payable from money in the State Trunk Line Fund or the Comprehensive Transportation Fund or received or to be received from the Motor Vehicle Highway Fund or the Michigan Transportation Fund, by the issuance of new bonds.

Section 122 of the Aeronautics Code of the State of Michigan allows a public airport authority to issue self-liquidating bonds for the purpose of acquiring, purchasing, constructing, improving, enlarging, furnishing, equipping, reequipping, or repairing airports and airport facilities for which operational jurisdiction is transferred under the Code or is acquired by the authority.)

MCL 247.668b

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 the early 2000s, the STC authorized bonding authority to MDOT to achieve a 90% good or fair condition goal for Michigan roadways. According to the Senate Fiscal Agency, MDOT used its bonding authority to increase outstanding bonding debt from $600.0 million in 2000 to $2.3 billion in 2009. This bonding produced an average annual debt service payment of $211.3 million over the past ten years. While these annual debt service payments likely will decrease in the next few years, the practice of bonding is unsustainable and costs more to pay back over time. In addition, bonding is not a part of the appropriations process, but it affects appropriations and can make appropriating funds for transportation and infrastructure difficult. Given these serious financial effects, MDOT should not have such significant, unilateral bonding authority. Requiring MDOT to provide regular reports concerning current debt service payments and prohibiting the issuance of new bonds without the authorization of the Legislature could reduce the amount of money spent on debt service payments, allow more funding for infrastructure, and improve planning for annual appropriations.

Opposing Argument

Financing transportation projects by issuing bonds could improve the current state of Michigan roads. Bonding allows MDOT to finance significant, comprehensive road projects that can reduce future spending on repairs, and allows the Department to bring transportation projects to fruition sooner. The Department has benefited from these advantages of bonding for road, bridge, aeronautic, and other transportation projects in the past and continues to do so under the authority granted to the STC by Michigan law. The Department's most recent five-year transportation plan includes $3.5 billion in bonds approved by the STC for many transportation projects. Amending the current process to issue bonds for transportation projects by requiring that the Legislature approve their issuance would inhibit MDOT's ability to bring about comprehensive and timely road projects.

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Michael Siracuse

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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.