

# Legislative Analysis

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## LOCAL BRIDGE FUND/PROGRAM

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**House Bill 5319 as enacted**  
**Public Act 384 of 2004**  
**Sponsor: Rep. Tom Casperson**

**House Committee: Transportation**  
**Senate Committee: Appropriations**

### Second Analysis (11-4-04)

#### ***BRIEF SUMMARY:***

House Bill 5319, enacted as Public Act 384 of 2004, amends Section 10 of Public Act 51 of 1951 (Act 51) to establish a Local Bridge Fund as a separate fund in the state treasury. The bill states that "*money appropriated to the local bridge fund and interest accruing to that fund shall be expended for the local bridge program.*" The bill indicates that "*the purpose of the fund is to provide financial assistance to highway authorities for the preservation, improvement, or reconstruction of existing bridges or for the construction of bridges to replace existing bridges in whole or part.*" The bill limits the distribution of program funds to local highway authorities (county road commissions, cities, and villages).

The bill establishes a process for the distribution of funds in the Local Bridge Fund.

The bill also repeals, effective October 1, 2004, Section 11b of Act 51 which had provided for a Critical Bridge Fund/Program. As a result, the bill effectively replaces the Critical Bridge Fund/Program, established in Act 51 since 1972, with the Local Bridge Fund/Program.

The bill provides additional funding for the new program. The Critical Bridge Fund had received an annual \$5.0 million earmark from the Michigan Transportation Fund (MTF). Under provisions of the bill, the new Local Bridge Fund will receive an annual \$5.0 million earmark from the MTF, plus an earmark of certain revenue from the Motor Fuel Tax Act: a quarter cent of the gasoline excise tax in FY 2004-05 (equal to approximately \$12.7 million), and a half-cent of the gasoline excise tax in subsequent fiscal years (equal to approximately \$25.5 million in FY 2005-06).

The H-4 substitute, as passed the House, included a tie-bar to HB 5318. That enacting section was not included in the bill as enacted.

**THE CONTENT OF THE BILL:**

Provisions of the bill as enacted, and the former provisions of Act 51 which established the Critical Bridge Fund/Program, are shown in the table below:

| <i>Fund/Program Name</i>     | <b>Prior Law:</b><br>Critical Bridge Fund/Program  | <b>HB 5319, as enacted:</b><br>Local Bridge Fund/Program   |
|------------------------------|--|--|
| <i>State funding sources</i> | <p>\$5.0 million annual from MTF</p> <p>The program also received interest on fund balances and matched federal bridge funds allocated to the program.</p> <p>See former Section 11b</p>   | <p>\$5.0 million annual from MTF, plus one-quarter cent of gasoline excise tax in FY 2004-05 (approximately \$12.7 million), and one-half cent of the gasoline excise tax in subsequent fiscal years (approximately \$25.5 million in FY 2005-06).</p> <p>In total these earmarks equate to:<br/>                     \$17.7 million in FY 2004-05,<br/>                     \$30.5 million in FY 2005-06, and like amounts in subsequent fiscal years depending on gasoline excise tax revenue.</p> <p>The program will also receive interest on fund balances and will access federal bridge funds allocated to the program.</p>   |
| <i>Purpose of fund</i>       | <p>Former Section 11b(1) stated:</p> <p><i>"The money appropriated to the critical bridge fund and interest accruing to that fund shall be expended for the critical bridge program to be administered by the department to provide financial assistance to highway authorities for the improvement, or reconstruction of existing bridges or for the construction of bridges to replace existing bridges in whole or part."</i></p> | <p>Section 10(5) of the bill incorporates language of the former Section 11b (1), with some changes. Section 10(5) is shown below with differences from the former Section 11b(1) shown by strikeouts and bolding:</p> <p><i>"The money appropriated to the <del>critical</del> <b>local</b> bridge fund and interest accruing to that fund shall be expended for the <del>critical</del> <b>local</b> bridge program <del>to be administered by the department.</del>"</i></p> <p><i>"<b>The purpose of the fund is to provide financial assistance to highway authorities for the preservation, improvement, or reconstruction of existing bridges or for the construction of bridges to replace existing bridges in whole or part.</b>"</i></p> |

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| <i>Eligible highway authorities</i> | <p>Former Section 11b(3) limited the department to 38.4% of critical bridge funds available during a five-year period.</p> <p>Note: The department did not compete for Critical Bridge Fund funds; the program had become effectively a 100% local program.</p>  | <p>The bill limits distribution of program funds to local highway authorities (county road commissions, cities, and villages), or the local bridge advisory board and regional bridge councils created in the bill.</p>  |
| <i>Program administration</i>       | <p>Former Sections 11b(2), 11b(3), and the administrative rules promulgated under authority of the act provided for the department to administer the program in cooperation with a 9-member Critical Bridge Advisory Committee, 3 members representing counties, 3 members representing cities and villages, and 3 members representing the department, 1 of whom was to act a chairman.</p> | <p>The bill provides for two levels of administration: a local bridge advisory committee, and seven regional bridge councils.</p> <p><i>Local Bridge Advisory Committee</i><br/>Consisting of 6 voting members, as follows:<br/>3 from the County Road Association of Michigan – 1 who represents counties with populations 65,000 or greater, 1 who represents counties with populations from of 30,000 to 65,000, and 1 who represents counties with populations of 30,000 or less; and:<br/><br/>3 from the Michigan Municipal League -- 1 who represents cities with populations 75,000 or greater, 1 who represents cities with populations of less than 75,000, and 1 who represents villages.</p> <p>The bill also provides for 2 non-voting members appointed by the state transportation department, and directs the department to provide "qualified administrative staff and qualified technical assistance to the board."</p> <p>The bill requires that names of nominees be submitted to the State Transportation Commission by November 15, 2004, and the Commission to make appointments by January 30, 2005.</p> <p>The bill indicates that voting members are appointed to two-year terms, and that the chairman be selected from among the voting members.</p> |

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|  |   | <p><i>Regional Bridge Councils</i></p> <p>One regional council is formed for each department region as they exist on October 1, 2004 (a total of seven). Each council is comprised of 2 voting members from the County Road Association of Michigan from counties within the region, and 2 voting members of the Michigan Municipal League from cities and villages in the region. Each council also includes one non-voting member of the state transportation department in the region to provide qualified administrative staff and qualified technical assistance.</p>  |
| <p><i>Program distribution and project section</i></p> | <p>The administrative rules promulgated under the act provided that the department, in cooperation with the Critical Bridge Advisory Committee, identify and list in order the most critical bridges in the state, taking into consideration several factors including present and future importance of critical bridge to highway, road, or street network of which it is a part, and the importance of the highway, road, or street network to the area; bridge capacity; and the financial capacity of highway authority.</p> <p>After bridges were listed, projects were awarded in rank order until all available funds allocated.</p> <p>A more detailed description of the former Critical Bridge Fund/Program can be found in the publication "Local Critical Bridge Fund/Program" on the House Fiscal Agency's web site at:<br/> <a href="http://www.house.mi.gov/hfa/alpha.html">http://www.house.mi.gov/hfa/alpha.html</a></p> | <p>The bill provides that no less than 5% and no more than 15% of the funds received in the Local Bridge Fund may be used for critical repair of large bridges and emergencies as determined by the Local Bridge Advisory Board.</p> <p>Funds remaining after the allocation of funds for large bridge repair and emergencies are then distributed by the Local Bridge Advisory Board to the Regional Bridge Councils according to a formula based on three factors:</p> <ol style="list-style-type: none"> <li>1) the ratio of local bridges in the region to total local bridges in the state;</li> <li>2) the ratio of total local bridge deck area in the region to total bridge deck area in the state; and,</li> <li>3) the ratio of structurally deficient local bridge deck area in the region to total structurally deficient bridge deck area in the state.</li> </ol> <p>The bill authorizes the Local Bridge Advisory Board to weigh each of these factors in making its distribution to the Regional Bridge Councils with each factor receiving no greater than 50% and no less than 25% of the weight.</p> <p>The bill then directs the Regional Bridge Councils to allocate funds received from the Local Bridge Advisory Board for the preservation, improvement, and reconstruction of bridges in each region or for the replacement of existing bridges in whole or part in the region.</p> |

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|                              |   | <p>The bill does not provide guidance to the Regional Bridge Councils in determining how bridges should be ranked for funding from among other competing bridge projects.</p> <p>The bill indicates that the distribution process will begin October 1, 2005, a year after the effective creation of the Local Bridge Fund/Program, and a year after effective repeal of Section 11b which provided the legal authority for the Critical Bridge Fund/Program. It is not clear how funds would be distributed in FY 2004-05, or if there is legal authority for the program and distribution of funds in FY 2004-05.</p> |
| <i>Reporting requirement</i> | None  | <p>Requires the department to submit an annual report, beginning January 1, 2007, to the chairs and minority vice chairs of the House and Senate Appropriations Committees, and the House and Senate standing committees on transportation, listing for the previous fiscal year how much money was dedicated for emergency and large bridge repair and a listing of what emergency and large bridge projects were funded, a listing of the total money distributed to each region, and a listing of specific projects funded.</p>  |
| <i>Other Provisions</i>      | <p>Former Section 11b had indicated that the Critical Bridge Fund/Program was not subject to Section 12(15) or Section 13(5). Section 12(15) prohibits use of MTF funds for county local road construction except to the extent that MTF funds are matched from other sources. Section 13(5) prohibits use of MTF funds for city or village street construction except to the extent that MTF funds are matched from other sources. In effect, these two sections limit the MTF share of local road and street construction (as opposed to maintenance or preservation) to 50% of project cost.</p> <p>Section 11b effectively allowed the Critical Bridge Fund/Program to provide more than 50% of project cost.</p> | <p>Provisions of the bill are substantially the same as prior Section 11b. The bill indicates that, "<i>The money in the local bridge fund is not subject to section 12(15) and section 13(5).</i>"</p>   |

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| <i>Bonding</i>              | <p>Former Section 11b had directed the State Transportation Commission to borrow not less than \$30.0 million to supplement funding for the Critical Bridge Program established in that section.</p> <p>This bonding language was added by amendment in 1992 (PA 223 of 1992). At that time the State Transportation Commission issued approximately \$30.0 million in bonds for the program.</p> <p>Debt service is provided from a \$3.0 million annual MTF earmark in Section 10(1)(b) of Act 51 which was also added by PA 223 of 1992.</p> | <p>The bill reproduces the language from the former Section 11b directing the State Transportation Commission to borrow not less than \$30.0 million to supplement the funding for the Local Bridge Program. It is not clear if this language constitutes a directive to issue \$30.0 million in new Local Bridge Fund bonds in addition to the \$30.0 million in Critical Bridge Fund bonds issued under the former Section 11b.</p> <p>As a practical matter, the bill does not appear to provide a revenue source to service new bonds.</p> <p>The bill changes the reference for the \$3.0 million annual MTF earmark in Section 10(1)(b) from "critical bridge fund established in section 11b" to "local bridge fund established in subsection (5)." However, the bill does not change a second reference to the former Section 11b in the subdivision.</p> <p>Actual debt service on the 1992 Critical Bridge Fund bonds is approximately \$2.4 million per year. This leaves only \$600,000 available to support new Local Bridge Fund bonding.</p> |
| <i>Administrative rules</i> | <p>Former Section 11b directs the department to promulgate rules governing the administration of the Critical Bridge Program, and indicates that the rules "shall set forth the eligibility criteria for financial assistance under the program and other matters related to the program as the department considers necessary and desirable."</p>  | <p>The bill reproduces the language from the former Section 11b in new Section 10(11), changing the references from "critical bridge program" to "local bridge program." However, as a practical matter it is not clear what administrative rules the department could establish since the department does not have administrative authority over the new program. The bill passes all administrative authority to the new Local Bridge Advisory Board.</p>   |

## ***FISCAL IMPACT:***

When the Motor Fuel Tax Act was amended in 1997 to increase the gasoline excise tax from 15 cents to 19 cents per gallon, Act 51 was also amended to earmark the related increase in Michigan Transportation Fund (MTF) revenue. Under provisions PA 79 of 1997, one cent of the four-cent increase was earmarked for the repair of state trunkline bridges.

Each penny of the Motor Fuel Tax Act's 19-cent per gallon gasoline excise tax generates approximately \$50.9 million in MTF revenue (based on May 2004 estimates for FY 2004-05). By redirecting a portion of the one-cent earmark currently dedicated to state trunkline bridges, HB 5319 would increase revenue for the Local Bridge Fund (a local program), and decrease state-restricted State Trunkline Fund revenue by a like amount. This redirection represents approximately \$12.7 million in FY 2004-05 (based on a quarter-cent of the gasoline excise tax), and approximately \$25.5 million in FY 2005-06 and subsequent years), based on one-half cent of the gasoline excise tax.

Since the Local Bridge Program will be a competitive grant program, with awards based on determinations of the Local Bridge Advisory Board and the Regional Bridge Councils created in the bill, not all local road authorities will receive awards under the program. It can not be determined in advance what specific local road authorities will get projects funded under the program.

The redirection of funds from the state trunkline bridge program to local bridge programs will affect the department's ability to meet its established bridge performance goals of 85% of non-freeway bridges and 95% of freeway bridges in good condition by 2008. At an October 28, 2004 State Transportation Commission workshop, the department indicated that it had met this goal for non-freeway bridges, but would not meet the goal for freeway bridges without additional funding. The department proposed moving the goal deadline from 2008 to 2012 and increasing program funding by \$45.0 million per year for the seven-year period, 2005 to 2012.

***Note on Federal/State/Local funding*** -- Under the old Critical Bridge Program, funds from the Critical Bridge Fund were used to match federal funds for local projects. The source of these federal funds, made available to local road agencies by MDOT, was the federal Highway Bridge Replacement and Rehabilitation Act. The department allocated 15% of these federal funds to local road agencies each year, amounting to between \$18 million and \$20 million.

Typically, construction costs for Critical Bridge projects were funded with 80% federal funds, 15% state funds (from the Critical Bridge Fund), and 5% from local road agency funds. In addition, the local road agency was typically responsible for 100% of preliminary engineering (design, permits, etc.), right of way acquisition, and construction engineering costs.

The additional state funds provided to the new Local Bridge Program under HB 5319 are in excess of the amount needed to provide a 15% match for the federal bridge funds currently allocated to the program. It is not clear if the additional funds will be used to increase the state share of project cost, or if some projects in the new Local Bridge Program will be funded using state and local funds exclusively.

***Note on Diesel Fuel Excise Tax*** – As noted above, the 1997 amendments to Act 51 earmarked the four-cent increase of the gasoline excise tax. A subsequent amendment to Act 51, PA 151 of 2003 (SB 539), changed a reference to the Motor Fuel Tax Act so as to also earmark a portion of the diesel fuel excise tax. HB 5319 would change the reference to again earmark only the gasoline portion of the state’s motor fuel taxes.

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