

TOWNSHIP COULD REQUIRE COUNTY ROAD COMMISSION TO COMPETITIVELY BID ROAD PROJECT

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House Bill 4251 as enrolled

Sponsor: Rep. Kevin Cotter

House Committee: Transportation and Infrastructure

Senate Committee: Infrastructure Modernization

Complete to 1-9-15

Enrolled House Bill 4251 represents a House substitute (H-5) for the Senate substitute (S-3). The only difference between the H-5 substitute and the S-3 substitute is that the H-5 substitute is not tie-barred to House Bill 5477. Instead, House Bill 4251, as enrolled, is tie-barred to House Joint Resolution UU, which would amend the Michigan Constitution to, among other things, increase the maximum permitted general sales and use tax from 6% to 7% after October 1, 2015, and, at the same time, exempt gasoline and diesel motor fuel sales from state's general sales and use tax after October 1, 2015. House Bill 4251 would take effect only if the resolution is approved by voters at the May 5, 2015, regular election.

A SUMMARY OF ENROLLED HOUSE BILL 4251

Enrolled House Bill 4251 would amend Public Act 283 of 1909 (MCL 220.1 to 239.6), which deals with public highways and private roads. The bill would specify that if a single township contributes 50% or more to the cost of a road project, the project is located entirely within the jurisdiction of the township, and the road project does not disrupt any multiple township contract, the township board could, by resolution, require that the county road commission contract for the work on that road project through competitive bidding. Under the bill, a county road commission would not be prohibited from submitting a competitive bid.

If a township board requires a county road commission to contract for work on a road project through competitive bidding, the county road commission would be required to use the responsive and reasonable best value bidder process to competitively bid and award the road project contract to a responsive and reasonable best value bidder.

Responsive and Reasonable Best Value Bidder

The bill would define "responsive and reasonable best value bidder" to mean a bidder who meets one of the following: 1) complies with all bid specifications and requirements and is listed by the Department of Transportation as a qualified bidder for the particular type of road project involved or 2) complies with all bid specifications and requirements and is determined by the Department of Transportation OR the county road commission to be responsible using the following criteria: a) financial resources, b) technical

capabilities; c) professional experience, and d) past performance and insurance and bonding capacity.

If a township board requires a county road commission to contract for work on a road project through competitive bidding, the county road commission would be required, within 15 days after the deadline for accepting bids and based on the responsive and reasonable best value bidder process, to do the following:

- Determine which bids submitted are qualified and which are not qualified.
- Clearly mark bids indicating which are qualified and which are not qualified.
- Transmit all the bids received to the township board at least 30 days before awarding the contract to a qualified bidder.

Under the bill, the previous subsections would only apply to the following road projects: a) a project involving unpaved roads with an estimated cost of more than \$25,000; b) a project involving paved roads with an estimated cost of more than \$50,000.

Very Low-Volume Local Road Project

If a single township contributes 50% or more to the cost of a very low-volume local road project, the project is located entirely within the jurisdiction of the township and it does not disrupt any multiple township contract, the work on that local road project, at a minimum, would need to comply with the standards adopted by the American Association of State Highway and Transportation Officials for very low-volume local road projects.

A county road commission could not impose construction and design standards on a very low-volume local road project that exceed the American Association of State Highway and Transportation officials construction and design standards of such a project unless those standards are approved by the township board.

The term "very low-volume local road project" would be defined to mean that term as defined in the American Association of State Highway and Transportation Officials Guidelines for Geometric Design of Very Low-Volume Local Roads, i.e. with average daily traffic (ADT) of 400 or fewer vehicles.

Two or More Townships combined

If two or more townships in combination with one another contribute 50% or more to the cost of a road project located entirely within the jurisdiction of those townships and does not disrupt any multiple township contract, the township board of each of those townships, by resolution, could require that the county road commission contract for the work on that project through competitive bidding. Competitive bidding by the county road commission would be required only if each township board passes a resolution requiring that the work be awarded through competitive bidding. A road commission would not be prohibited from submitting a competitive bid.

If each township board required a county road commission to contract for work on a road project through competitive bidding, the road commission would be required to use the competitive and reasonable best value bidder process to competitively bid and award the road project contract to that bidder. The bill specifies that the road commission would also be required, within 15 days after the deadline for accepting bids, to do the following: 1) determine which bids submitted are qualified and which are not; 2) clearly mark the bids indicating which bid are qualified and which are not; 3) transmit all the bids received to each township board at least 30 days before awarding the contract to a qualified bidder.

The previous subsections would only apply to the following road projects: a) a project involving unpaved roads with an estimated cost of more than \$25,000; b) a project involving paved roads with an estimated cost of more than \$50,000.

Two or More Townships in Combination In Low-Volume Local Road Projects

If two or more townships in combination with one another contribute 50% or more to the cost of a very low-volume local road project located entirely within the jurisdiction of those townships and it does not disrupt any multiple township contract, the work on that project would need to, at a minimum, comply with the standards adopted by the American Association of State Highway and Transportation Officials for Very Low-Volume Local Road projects.

The bill specifies that a county road commission could not impose construction and design standards on a very low-volume local road project that exceed the American Association of State Highway and Transportation Officials construction and design standards for very low-volume local road projects unless the standards are approved by each of the township boards.

FISCAL IMPACT:

The bill would have no impact on state government. The fiscal impact on townships and county road commissions is indeterminate.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.