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House Bill 4251 (Substitute S-3 as passed by the Senate)  
Sponsor: Representative Kevin Cotter  
House Committee: Transportation and Infrastructure  
Senate Committee: Infrastructure Modernization

Date Completed: 11-21-14

### **CONTENT**

**The bill would amend Public Act 283 of 1909, which governs county roads and county road commissions, to do the following:**

- Specify that if a township, or townships, contributed 50% or more to the cost of a road project and met other conditions, the township board, or boards, could require the county road commission to use competitive bidding to contract for the work on that project.**
- Require a county road commission to use the responsive and reasonable best value bidder process to bid the project contract, and to award the contract to such a bidder, if the commission were required to bid the project.**
- Specify that if a township, or townships, contributed 50% or more to the cost of a "very low-volume local road project", the work would have to comply with the standards adopted by the American Association of State Highway and Transportation Officials (AASHTO) for very low low-volume local road projects.**

The proposed competitive bidding provisions would apply only to a project involving unpaved roads with an estimated cost of more than \$25,000, or a project involving paved roads with an estimated cost of more than \$50,000.

The bill is tie-barred to House Bill 5477. (As passed by the Senate, House Bill 5477 (S-13) would amend the Motor Fuel Tax Act to provide for excise taxes on gasoline fuel and diesel fuel that would be adjusted annually based on 1) a percentage of the respective fuel's average wholesale market price, and 2) criteria establishing limits on rates and rate changes.)

#### **Competitive Bidding for Single Township Projects**

Under this bill, if a township contributed 50% or more to the cost of a road project, the road project were located entirely within the jurisdiction of the township, and the road project did not disturb any multiple township contract, the township board, by resolution, could require the county road commission to use competitive bidding to contract for the work on that road project. A county road commission would not be precluded from submitting a competitive bid.

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

(As used in this provision, "responsive and reasonable best value bidder" would mean a bidder who meets one of the following: a) complies with all bid specifications and requirements, and is listed by the Michigan Department of Transportation (MDOT) as a qualified bidder for the particular type of road project involved, or b) complies with all bid specifications and requirements, and is determined by MDOT or the county road commission to be responsible using all of the following criteria: i) the bidder's financial resources, ii) the bidder's technical capabilities, iii) the bidder's professional experience, iv) the bidder's past performance, and v) the bidder's insurance and bonding capacity.)

If a township board required a county road commission to contract for work on a road project through competitive bidding, the county road commission, within 15 days after the deadline for accepting bids, would have to do all of the following:

- Determine which bids submitted were qualified and which bids were not qualified based on the responsive and reasonable best value bidder process.
- Clearly mark the bids to indicate which bids were qualified and which were not qualified.
- Transmit all of the bids received to the township board at least 30 days before awarding the contract to a qualified bidder.

The proposed provisions would apply only to a road project involving unpaved roads with an estimated cost of more than \$25,000, or a road project involving paved roads with an estimated cost of more than \$50,000.

#### Very Low-Volume Local Road Projects

The bill specifies that if a township contributed 50% or more to the cost of a very low-volume local road project, the road project were located entirely within the jurisdiction of the township, and the road project did not disturb any multiple township contract, the work on that project, at a minimum, would have to comply with the standards adopted by the AASHTO for very low 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 exceeded AASHTO construction and design standards for such projects unless those standards were approved by the township board. These provisions also would apply to instances in which two or more townships contributed 50% or more to the cost of a very low-volume local road project. (As used in these provisions, "very low-volume local road" would mean that term as defined by AASHTO in *Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT ≤ 400)*. As defined by AASHTO, "very low-volume local road" means a road that is functionally classified as a local road and has a design average daily traffic volume (or ADT) of 400 vehicles per day.)

#### Multiple Township Projects & Competitive Bidding

Under the bill, if two or more townships in combination with one another contributed 50% or more to the cost of a road project that was located entirely within the jurisdiction of those townships, and the road project did not disturb any multiple township contract, the township board of each of those townships, by resolution, could require the county road commission to use competitive bidding for that road project. Competitive bidding by the county road commission would be required for such a project only if each township board passed a resolution requiring the work to be awarded through competitive bidding. A county road commission would not be precluded from submitting a competitive bid.

The bill would extend the responsive and reasonable best value bidder process requirements to multiple township road projects and define "responsive and reasonable best value bidder" as that term is defined above. The bill also would extend qualified bid determination

requirements to multiple township projects, except that the county road commission would have to transmit all of the bids received to each township board at least 30 days before awarding the contract to a qualified bidder.

The proposed provisions would apply only to a road project involving unpaved roads with an estimated cost of more than \$25,000, or a road project involving paved roads with an estimated cost of more than \$50,000.

Proposed MCL 224.19c

Legislative Analyst: Jeff Mann

### **FISCAL IMPACT**

The bill would have no fiscal impact at the State level, and would have an indeterminate impact on counties and townships. While township-mandated competitive bidding could result in savings on some road projects, it also could result in increased administrative costs.

Fiscal Analyst: Glenn Steffens