

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 990 (Substitute S-1)
Sponsor: Senator Bill Schuette
Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 4-23-02

CONTENT

The bill would create the "Public and Private Transportation Act" to do all of the following:

- Require a person to obtain the approval of a responsible public entity in order to acquire, construct, improve, maintain, or operate a transportation facility.
- Allow a responsible public entity to designate a transportation facility as a qualifying transportation facility and grant approval for it to be acquired, constructed, maintained, improved, or operated by a private operator.
- Allow a responsible public entity to contract with the operator of a qualified transportation facility for transportation services.
- Require an operator to enter into a comprehensive agreement with a responsible public entity, before acquiring, constructing, improving, maintaining, or operating a qualifying transportation facility.
- Allow a comprehensive agreement to provide for user fees during the period of an operator's authority.
- Specify the authority and responsibilities of an operator of a qualifying transportation facility, and provide for the termination of the operator's authority and duties on a date specified in the comprehensive agreement.
- Allow a responsible public entity to form or use an existing nonprofit corporation to enable an operator to issue tax-exempt obligations for the acquisition, construction, or improvement of a qualifying transportation facility.
- Allow a responsible public entity to obtain governmental financial assistance for a qualifying transportation facility.
- Provide for legal remedies that a responsible public entity could pursue if an operator materially defaulted on the comprehensive agreement.
- Allow a public body or responsible public entity to dedicate a property interest for public use as a qualifying transportation facility.
- Allow a responsible public entity to exercise the power of condemnation, at the request of an operator, for the purpose of acquiring real property.
- Reserve to a responsible public entity the exclusive power to determine matters specifically committed to it by the bill.
- Authorize the State to undertake projects for interstate or international bridges, tunnels, or ferry transportation facilities.

The bill states: "The legislature finds that there is a public need for timely acquisition or construction of and improvements to transportation facilities in the state that are compatible with state and local transportation plans and that serve the public safety and welfare." The bill also specifies that an action taken under it that was not otherwise contrary to law would serve the public purpose of the bill if the action facilitated either the timely acquisition of, construction of, or improvement to a qualifying transportation facility or the efficient operation or maintenance of a qualifying transportation facility.

Approval and Authorization

Approval Requirement. A person seeking authorization to acquire, construct, improve,

maintain, or operate a transportation facility would have to obtain the approval of a responsible public entity. The approval process could be initiated by either a person requesting approval or a responsible public entity requesting proposals under the bill, as described below.

“Transportation facility” would mean a road; bridge, including an international or interstate bridge; tunnel, including an international or interstate tunnel; overpass; ferry, including a ferry providing international or interstate service; mass transit facility; vehicle parking facility; port facility; intermodal facility; or any other facility, not including airports, used for or in connection with transportation of people or goods, together with any other property that was needed or convenient to operate, or otherwise reasonably related to, the facility. “Responsible public entity” would mean either the State or a county, city, village, or other political subdivision of the State or an authority or agency of a county, city, or village that had the power to acquire, construct, improve, maintain, or operate a transportation facility.

Request for Approval. A person could request approval from a responsible public entity to acquire, construct, improve, maintain, or operate a qualifying transportation facility. A request would have to be accompanied by all of the following material and information:

- A topographic map indicating the location of the transportation facility.
- A description of the transportation facility, including the conceptual design of the facility and all proposed interconnections with other transportation facilities.
- The projected total life cycle of the transportation facility and the proposed date for acquisition of the transportation facility or the beginning of construction of, or improvements to, the transportation facility.
- A statement setting forth the method by which the operator proposed to secure all property interests required for the transportation facility, including both the nature of the property interests and any property that the responsible public entity was expected to be requested to condemn.
- If available and applicable, information relating to the current transportation plans of each “affected local jurisdiction” (a county, city, village, or township in which

any portion of a qualifying transportation facility was located).

- A list of permits and approvals expected to be required for acquisition of, construction of, or improvements to the transportation facility from local, State, or Federal agencies and a projected schedule for obtaining these permits and approvals.
- A list of public utility facilities expected to intersect with, or be crossed over or under by, the transportation facility and a statement of the operator’s plans to accommodate that anticipated intersection or crossing.
- A general statement describing the operator’s plans for financing and operating the transportation facility.
- The names and addresses of the people who could be contacted for further information concerning the request.
- A statement of the public benefit to be derived from the acquisition, construction, improvement, maintenance, or operation of the transportation facility.
- Additional material and information that the responsible public entity reasonably requested.

The responsible public entity could waive the requirement to provide material information above.

Upon receiving the proposal, the responsible public entity, acting through its chief administrative officer, would have to determine whether it was in the public’s best interest to proceed to consider the acquisition, construction, improvement, maintenance, or operation of a qualifying transportation facility. If the responsible public entity, acting through its chief administrative officer, determined to proceed, it would have to publish a notice, in a manner reasonably intended to reach interested parties, of the receipt of the proposal and provide for the submission, within a period specified in the notice, of competing proposals by other proposed operators. The notice would have to specify that procedures and criteria for selecting among competing proposals were available from the specified office of the responsible public entity.

“Chief administrative officer” would mean any of the following:

- The manager of a village or, if a village did not employ a manager, the village

president.

- The city manager of a city or, if a city did not employ a city manager, the city's mayor.
- The elected county executive or appointed county manager of a county; or, if the county were not a charter county or had not adopted an optional unified form of county government, the appointed controller of the county or, if the county had not appointed a controller, an individual designated by the county board of commissioners.
- The Director of the Michigan Department of Transportation (MDOT).
- The official granted general administrative control of an agency, authority, or organization of government established by law that was a responsible public entity under the bill.

Request for Proposals. A responsible public entity could request proposals for the acquisition, construction, improvement, maintenance, or operation of transportation facilities either generally or with respect to specific facilities. A request for proposals would have to describe the procedures and criteria for selecting among competing proposals and could be made independently of any receipt of a proposal under the provision described above.

Proposal Guidelines & Procedures. The MDOT Director would have to develop, and the Transportation Commission would have to approve, guidelines and procedures that could be promulgated as rules, for the solicitation, submission, evaluation, and approval of proposals by the Director and the Commission from proposed operators. The procedures and guidelines could provide that, by submitting a proposal under the bill, the proposed operator agreed to be conclusively bound by the decision of the responsible public entity. Any other responsible public entity could choose to use the guidelines and procedures as approved by the Commission, or could modify them, or develop its own guidelines and procedures for the solicitation, submission, evaluation, and approval of proposals received under the bill.

International Crossing. If the transportation facility were an international bridge, tunnel, or ferry and a public body in Canada, in consultation with a responsible public entity, had selected an operator for a qualifying

transportation facility, the responsible public entity could accept that operator without following the bill's procedures relating to proposals. The responsible public entity would have to cooperate with public bodies in Canada, with affected local jurisdictions, and with the State in the development, acquisition, construction, improvement, maintenance, and operation of a qualifying transportation facility that was an international bridge, tunnel, or ferry.

Qualifying Transportation Facility

Notwithstanding any charter ordinance, rule, or regulation that required competitive bidding, a responsible public entity could designate a transportation facility as a qualifying transportation facility and grant approval for the acquisition, construction, maintenance, improvement, or operation of a transportation facility by a specified operator (a private entity or its successor), if the responsible public entity determined that those actions served the bill's public purpose. The designation of a transportation facility as a qualifying transportation facility would have to occur through the responsible public entity's council, board, or other decision-making body. If the responsible public entity were the State, the designation would have to be made by the Transportation Commission.

The responsible public entity could determine that the acquisition, construction, maintenance, improvement, or operation of a transportation facility as a qualifying transportation facility served the bill's public purpose upon making all of the following findings:

- There was a public need for the type of transportation facility proposed to be operated as a qualifying transportation facility.
- The transportation facility, the proposed interconnections with existing transportation facilities, and the operator's plans for operation of the facility were reasonable and compatible with the responsible public entity's transportation plans and any local transportation plan that the entity determined relevant.
- The estimated cost of the transportation facility was reasonable in relation to similar facilities.
- The operator's plans would result in the timely and efficient acquisition of,

construction of, or improvements to a transportation facility or more efficient operation of an existing transportation facility.

The responsible public entity would have to establish a date for the acquisition of, or the beginning and completion of construction of or improvement to, the qualifying transportation facility. The responsible public entity could extend the established date.

The responsible public entity's approval would be subject to an executed comprehensive agreement between the operator and the responsible public entity. If the responsible public entity failed to incorporate the comments of an affected local jurisdiction, or acted to designate a qualifying transportation facility before it received the comments of an affected local jurisdiction, that failure or action would not affect the validity of the actions of the responsible public entity, the execution of a comprehensive agreement, or any other agreement entered into in connection with the comprehensive agreement.

Contract for Services

The bill would authorize a responsible public entity to contract with an operator for transportation services to be provided by a qualifying transportation facility in exchange for service payments or other consideration that the responsible public entity considered appropriate.

A copy of any service contract entered into by a responsible public entity would have to be filed with that entity's chief administrative officer.

Notification

A person requesting approval from, or submitting a proposal to, a responsible public entity would have to notify each affected local jurisdiction by furnishing a copy of the request or proposal to each jurisdiction within five days after submitting the application to the responsible public entity. Within 30 days after receiving that notice, an affected local jurisdiction could submit written comments to the responsible public entity on the proposed qualifying transportation facility. The comments would have to indicate whether the facility was compatible with the local comprehensive transportation plan.

Dedication of Property Interests

A public body or responsible public entity could dedicate a property interest that it had for public use as a qualifying transportation facility if the public body or responsible public entity found that dedication of the property interest would serve the bill's public purpose.

A public body or responsible public entity could convey any property interest that it had to an operator for the consideration the public body or responsible public entity determined was fair and reasonable and in the public's best interests. The consideration could consist of or include the agreement of the operator to operate the qualifying transportation facility if the public entity determined that consideration to be fair and reasonable and in the public's best interests.

Comprehensive Agreement

Before acquiring, constructing, improving, maintaining, or operating a qualifying transportation facility, an operator would have to enter into a comprehensive agreement with the responsible public entity. The comprehensive agreement would have to be executed substantially in the form approved by the responsible public entity. Approval of the agreement would have to occur through the responsible public entity's council, board, or other decision-making body. If the responsible public entity were the State, the Transportation Commission would have to approve the agreement.

A comprehensive agreement would have to provide for all of the following:

- Delivery of a payment bond in connection with the construction of or improvements to the qualifying transportation facility, in a form approved by the responsible public entity.
- Either evidence of sufficient credit standing in a form that satisfied the responsible public entity or a performance bond satisfactory to the responsible public entity.
- Review and approval of plans and specifications for the qualifying transportation facility by the responsible public entity.
- Reimbursement paid to the responsible public entity for services it provided.
- Filing of appropriate financial statements by the qualifying transportation facility with

the responsible public entity on a periodic basis.

- A reasonable maximum rate of return on investment for the operator, based on assumptions set forth in the comprehensive agreement. The allowed amount of the return on investment could not be affected by subsequently occurring events unless specifically provided otherwise in the agreement. The determination of reasonableness by the responsible public entity would be conclusive.
- The date of termination of the operator's authority and duties under the bill, and the date of dedication of a part or all of the qualifying transportation facility to the appropriate public entity or entities.
- The distribution of earnings in excess of the costs of operation and maintenance, debt service, funding and maintaining required reserves, and the maximum rate of return as negotiated in the comprehensive agreement.
- Other lawful terms and conditions to which the operator and the responsible public entity mutually agreed, including provisions regarding unavoidable delays, provisions providing for a loan of public funds to the operator, or provisions that would enable the operator to issue tax-exempt obligations to acquire, construct, improve, maintain, or operate one or more qualifying transportation facilities.
- The duties of the operator under the bill and other terms and conditions that the responsible public entity determined served the bill's public purpose.

In the comprehensive agreement, the responsible public entity could agree to make grants or loans to the operator from amounts received from any other public entity, the United States, or Canada.

The comprehensive agreement could contain provisions under which the responsible public entity agreed to provide notice of default and cure rights for the benefit of the operator and the people specified in the agreement as providing financing for the qualifying transportation facility.

Changes in the terms of the comprehensive agreement that were agreed upon by the parties would have to be added to the agreement by written amendment executed by each of the parties to it.

User Fees

A comprehensive agreement could provide for user fees to be established during the period of the operator's authority. User fees would have to be set at a level that, taking into account any service payments and other revenues, allowed the operator to pay operating and maintenance costs, debt service on obligations issued to finance the facility, and the rate of return on investment specified in the comprehensive agreement. If specified in the agreement, the responsible public entity's approval could be required for changes in the user fees, subject to the bill's requirements and instruments under which debt or other obligations to finance the facility had been issued. The approval of any other public body in Michigan could not be required for user fees established under a comprehensive agreement.

The operator would have to make a schedule of user fees available to any member of the public upon request. In negotiating user fees, the parties would have to establish fees that were the same for people using the facility under the same or similar conditions.

The execution of the comprehensive agreement, or an amendment to it, would constitute conclusive evidence that the user fees provided for in the agreement complied with the bill. User fees established in the comprehensive agreement as a source of revenue could be in addition to, or in lieu of, service payments.

Operator's Authority & Duties

After a comprehensive agreement was executed, the operator could acquire, construct, improve, maintain, or operate a qualifying transportation facility. The operator also could own, lease, or acquire any right to use or operate a qualifying transportation facility. The operator could impose user fees or enter into a service contract in connection with the use of the qualifying transportation facility. The operator could not, however, impose tolls or user fees on any existing interstate highway or on any existing free road, bridge, tunnel, or overpass unless the road, bridge, tunnel, or overpass was reconstructed to provide for increased capacity.

An operator could finance a qualifying

transportation facility in an amount and on terms and conditions that the operator determined. The operator could issue debt, equity, or other securities or obligations, enter into sale and leaseback transactions, and secure financing with a pledge of or security interest in, or lien on, its property, including any of its property interests in the qualifying transportation facility. A responsible public entity could approve the issuance of the operator's debt obligations, but approval could not cause the obligations to become a debt or other obligation of the responsible public entity. Approval of the issuance of debt obligations by the responsible public entity would have to occur through its council, board, or other decision-making body. If the responsible public entity were the State, the designation would have to be made by the Transportation Commission.

Subject to applicable permit requirements, the operator could acquire, construct, improve, maintain, or operate a qualifying transportation facility that crossed any canal or navigable watercourse as long as the crossing did not unreasonably interfere with the navigation and use of that waterway. If a qualifying transportation facility crossed the State boundary, including an international border, the operator would be responsible for obtaining consents, agreements, or property interests required by the laws of the other applicable state or province.

In operating the qualifying transportation facility, the operator could make classifications according to reasonable categories for assessment of user fees and establish other conditions or requirements for the use of the facility that were consistent with the bill.

During the term of the comprehensive agreement, the operator would have to do all of the following:

- Acquire, construct, improve, maintain, or operate the facility in a manner that met the responsible public entity's engineering standards for transportation facilities operated and maintained by that entity.
- Upon payment of the user fees or service payments, if applicable, keep the qualifying transportation facility open for use by members of the public at all times after the initial opening. The operator would be exempt from this requirement if one or more of the following applied: 1)

temporary closures because of emergencies; 2) closures for protection of public safety, with the consent of the responsible public entity; or 3) closures for construction or maintenance procedures, during reasonable periods of time.

- Maintain, or provide by contract for the maintenance of, the qualifying transportation facility.
- Cooperate with the responsible public entity in establishing an interconnection with the qualifying transportation facility requested by the responsible public entity.
- Comply with the provisions of the comprehensive agreement and any service contract.

The operator of a qualifying transportation facility approved by a responsible public entity under the bill would be considered to be acting on behalf of the approving entity and as its agent with respect to the acquisition, construction, improvement, maintenance, or operation of the qualifying transportation facility.

Obligations issued or incurred by an operator or responsible public entity under the bill would be excluded from the requirements of the Revised Municipal Finance Act.

Nonprofit Corporation

For the purpose of enabling an operator to issue tax-exempt obligations for the acquisition, construction, or improvement of a qualifying transportation facility, a responsible public entity could do one or more of the following:

- Incorporate or provide for the incorporation of a nonprofit corporation under the Nonprofit Corporation Act, or contract with an existing nonprofit corporation.
- Be a member of or control, directly or indirectly, a nonprofit corporation.
- Under appropriate standards established by the responsible public entity's legislative body, act through a nonprofit corporation in accomplishing the bill's purposes.

In accordance with the comprehensive agreement, all or a portion of an operator's rights, duties, or obligations could be granted to or imposed upon the nonprofit corporation, which then would be considered to be the operator's successor to the extent of the grant or imposition.

The comprehensive agreement could provide for excess earnings to be distributed to one or more of the following:

- The responsible public entity.
- The operator, for early debt reduction.
- The affected local jurisdictions.
- Any other public entity.

The comprehensive agreement could authorize the operator, upon or after completing the acquisition, construction, or improvement of the qualifying transportation facility, to transfer all or any part of the facility to an appropriate public entity for operation. A transfer of all or any part of the facility would be subject to the rights of a person or entity that had provided financing for the facility, including the provider of any related credit, liquidity, swap, interest rate cap, or similar instrument, that were set forth in an indenture or other legal instrument entered into in connection with that financing, including the right to payment of principal, premium, and interest on any debt financing from the facility's revenues.

Governmental Assistance

A responsible public entity could take action to obtain Federal, State, provincial, or local assistance for a qualifying transportation facility that served the bill's public purpose. A responsible public entity could enter into contracts required to receive Federal assistance.

A responsible public entity or another public entity could determine that it served the bill's public purpose for all or a portion of the costs of a qualifying transportation facility to be paid, directly or indirectly, from the proceeds of a grant or loan made by a public entity, the Federal government of the United States, or the federal government of the Dominion of Canada and, upon that determination, could pay or cause to be paid the costs or portion of costs from the grant or loan.

Legal Remedies

After providing notice to an operator and to the secured parties that appeared in the operator's records, a responsible public entity could bring an action for a judgment in a court of competent jurisdiction if the operator had materially defaulted on the comprehensive agreement.

"Material default" would mean a default by the operator in the performance of its duties in which both of the following occurred:

- The default jeopardized adequate service to the public from a qualifying transportation facility.
- The default remained unremedied after the responsible public entity had notified the operator of the default and the reasonable cure period specified in the comprehensive agreement or service contract had elapsed.

Except upon agreement of the operator and other parties identified in the comprehensive agreement, the responsible public entity could not exercise the remedies provided in the bill or condemnation proceedings for taking over the transportation facility unless a judgment had been entered by a court of competent jurisdiction. On entry of a judgment by the court, the responsible public entity could do one or more of the following:

- Take over the transportation facility and succeed to all of the right, title, and interest in the facility and any liens on revenues previously granted by the operator to any person providing financing.
- If the responsible public entity had the power of condemnation, exercise that power to acquire the facility, except that a person that had provided financing for the facility, and the operator, to the extent of its capital investment, could participate in the condemnation proceedings with the standing of a property owner.
- Terminate the comprehensive agreement and exercise other rights and remedies available at law or in equity, subject to the rights of the holders of any obligations of the operator incurred in connection with the financing of the acquisition, construction, improvement, maintenance, or operation of the facility.
- Make or cause to be made appropriate claims under performance or payment bonds.

If the responsible public entity elected to take over a qualifying transportation facility, it would have to acquire, construct, improve, operate, and maintain the facility; impose user fees for the use of the facility; and comply with service contracts as if it were the operator.

Revenues subject to a lien would have to be

collected for the benefit of, and be paid to, secured parties to the extent necessary to satisfy the operator's obligations to them, including the maintenance of reserves. Liens would have to be reduced and, when paid off, released. Before payments to, or for the benefit of, secured parties, the responsible public entity could use revenues to pay costs of current operation and maintenance of the transportation facility, including compensation to the responsible public entity for its services in operating and maintaining the facility. After all payments for operation and maintenance and payments to or for the benefit of secured parties, including payments to maintain required reserves, had been made, remaining revenues would have to be paid to the operator, subject to the negotiated maximum rate of return. The right to receive payment under this provision would be considered just compensation for the qualifying transportation facility.

The bill provides that the State, each affected local jurisdiction, and each public service company, public utility, railroad, or cable television provider that had or used facilities that were to be affected by the location of a qualifying transportation facility, would have to cooperate fully with the operator of the facility in planning and arranging all activities related to the location of the facility.

A takeover of a qualifying transportation facility by the responsible public entity could not be considered to operate as a pledge of the full faith and credit of the public entity to secure the operator's outstanding debt. Assuming the operation of the facility would not require the responsible public entity to pay an obligation of the operator from a source other than revenues.

Condemnation

At the request of the operator of a qualifying transportation facility, the responsible public entity could exercise the power of condemnation, as provided by law, for the purpose of acquiring real property or estates or interest in real property to the extent that the entity found that the action served the bill's public purpose. An amount to be paid in a condemnation proceeding would have to be paid by the operator or from governmental grants or loans made to the operator, or from other available funds.

Until a court entered a final order of default, the power of condemnation could not be exercised against a qualifying transportation facility. After a final order of default was entered, the responsible public entity could exercise the power of condemnation in lieu of, or after, taking over the transportation facility.

Cooperation of Public Entities & Public Services

Any of those entities that possessed the power of condemnation could exercise that power in connection with the moving or relocation of facilities to be crossed by the qualifying transportation facility or that had to be relocated to the extent that the moving or relocation was made necessary or desirable by construction of or improvements to the qualifying transportation facility. For this purpose, construction or improvements would include work on temporary facilities for the purpose of providing service during the period of construction or improvement. The operator would have to pay an amount for the crossing, construction, moving, or relocating of facilities from governmental grants or loans or from other available sources of funds.

If the operator and a public service company, public utility, railroad, or cable television provider were not able to agree with the qualifying transportation facility on a plan for the crossing or relocation, the responsible public entity could determine the manner in which the crossing or relocation was to be accomplished and any damages due arising out of the crossing or relocation. The responsible public entity could employ expert engineers to examine the location and plans for the crossing or relocation, hear any objections, consider modifications, and make a recommendation to the responsible public entity. If an expert engineer were employed, the operator would have to pay the cost.

Termination of Operator's Authority

A responsible public entity would have to terminate an operator's authority and duties under the bill on the date established in the comprehensive agreement. Upon termination, the operator's authority and duties would cease and the qualifying transportation facility would be dedicated to the responsible public entity or, if the facility were initially dedicated by an affected local jurisdiction, to that jurisdiction, for public use. An international bridge or tunnel that was a qualifying transportation facility could be partially dedicated to a province or political subdivision of Canada, as provided in any agreement between the responsible public entity and the province or Canadian municipality.

Sovereign Immunity

The bill specifies that nothing in it could be construed to be a waiver of the sovereign

immunity of the State, a Canadian province, any responsible public entity, or an affected local jurisdiction, or any officer or employee of any of those entities, with respect to the participation in, or approval of, a part of the qualifying transportation facility or its operation, including interconnection of the facility with another transportation facility.

The responsible public entity would possess sovereign immunity with respect to the acquisition, construction, improvement, maintenance, and operation of the qualifying transportation facility.

Responsible Public Entity's Authority

A responsible public entity would have the exclusive power to determine all matters specifically committed to it by the bill. Any decision or determination under the bill that was not specifically required to be made by the responsible public entity's council, board, or other decision-making body could be made by the entity's chief administrative officer or the person designated in writing by the chief administrative officer to act in his or her place.

Any request for proposals or notice of receipt of an unsolicited proposal could provide that an entity submitting a proposal in response to the request or notice would have to agree to be bound by all decisions of the responsible public entity made in connection with that request or notice and that the entity could not seek judicial review of those decisions.

State Authorization

The State, acting through the Transportation Commission and MDOT, would be specifically authorized to undertake projects for interstate or international bridges, tunnels, or ferry transportation facilities under the bill and to acquire, own and operate, and dispose of all property and property interests inside or outside of the State's borders that could be necessary to accomplish the bill's purposes.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. The Michigan Department of Transportation and local units of government could experience increased administrative costs associated with

the requirements to approve and authorize a request from a person to acquire, construct, improve, maintain, or operate a transportation facility. Furthermore, MDOT would experience increased administrative costs associated with the requirement to develop guidelines and procedures. The State and local units of government could experience additional costs associated with services provided to a qualifying transportation facility under a comprehensive agreement with an operator of a facility. However, these costs would have to be reimbursed by the operator.

The bill's provisions allowing a public entity to approve the issuance of an operator's debt obligations would not cause that debt to become the responsibility of the public entity. Furthermore, the bill's provisions allowing the operator to issue tax-exempt bonds would not result in additional costs to the State or local government. The bill could result in additional costs to the State or local government in the event that a qualifying transportation facility was transferred, in whole or in part, to a public entity for operation. The public entity then would be responsible for required debt service payments as well as the operational costs of the facility.

In the event that a public entity elected to take over a qualifying transportation facility, the State or local government would experience increased costs and revenues associated with the acquisition, construction, improvement, operation, and maintenance of the facility. The public entity could experience additional revenue associated with user fees charged. In the case of a takeover, the public entity would be responsible for debt service payments from restricted facility revenues only, and the debt would not constitute a full faith and credit obligation of the public entity.

The State or local government could realize increased revenues associated with the bill's provision requiring excess earnings be distributed to the public entity, an affected local jurisdiction, or any other public entity.

Fiscal Analyst: Craig Thiel

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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.