

LOCAL AGENCY WETLAND MITIGATION BOARD FUND

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Senate Bill 995 (S-1) as passed by the Senate
Sponsor: Sen. Mike Green
House Committee: Transportation and Infrastructure
Senate Committee: Transportation
Complete to 12-10-18

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 995 would amend two sections of Public Act 51 of 1951 (“Act 51”) dealing with a local agency wetland mitigation banking program.

The bill would abolish, effective April 2, 2019, both the current Local Agency Wetland Mitigation Bank Fund and the Local Agency Wetland Mitigation Bank Advisory Board created in Section 11h. The bill would establish in Section 11h a similar fund and a similar board, the Local Agency Wetland Mitigation Board Fund and the Local Agency Wetland Mitigation Advisory Board.

Although the bill would make some changes to the composition of the board, and to eligible uses of fund revenue, the purpose and objects of the new Local Agency Wetland Mitigation Board Fund would be substantially the same as those of the Local Agency Wetland Mitigation Bank Fund.

The new board would have seven members instead of nine. Currently, the County Road Association of Michigan and the Michigan Municipal League each appoint three voting members (for a total of six) who represent counties, or cities and villages, of varying sizes. Under the bill, those organizations would jointly appoint a total of four voting members from road agencies. The new board would continue to have a voting member who is an engineer appointed jointly by those organizations, and two nonvoting members appointed by the Michigan Department of Transportation (MDOT) and the Department of Environmental Quality (DEQ). Members would have to be appointed to the new board no later than April 1, 2019.

Act 51 currently requires the program created under Section 11h to provide funds to local road agencies for various purposes related to wetland mitigation. The bill would add the following two purposes for which funds could be provided:

- Obtaining conservation easements in perpetuity and maintenance of endowment funds to manage wetland mitigation sites.
- Purchasing wetland mitigation bank credits from an established wetland mitigation bank approved by the DEQ to meet a local agency’s wetland mitigation permit requirements.

The bill would extend, from 90 days to 180 days, the amount of time in which the board must approve or deny an application for funding it has received.

The bill would increase the cap on the unobligated fund balance of the Local Agency Wetland Mitigation Board Fund from \$5.0 million to \$8.0 million.

The bill would also change the description of the part- or full-time manager or engineer that the board is authorized to hire under both current law and the bill. The bill would eliminate specific description of the manager's or engineer's duties. The bill would instead require that the person or firm perform professional, technical, or administrative assistance or legal counsel, and that the duties be determined by the board. The bill would also allow the Board to contract with a person or firm to provide those duties. The manager and the Board would be required to retain insurances.

Finally, Section 10 of Act 51 governs the distribution of Michigan Transportation Fund (MTF) revenue. One of the earmarks made in Section 10 is a \$2.0 million earmark for the Local Agency Wetland Mitigation Bank Fund. Senate Bill 995 would amend Section 10 to change the earmark reference to the Local Agency Wetland Mitigation Board Fund.

The bill would take effect 90 days after being enacted.

MCL 247.660 and 247.661h

BACKGROUND INFORMATION:

The Michigan Transportation Fund (MTF) is the primary collection fund for dedicated state transportation revenue. Section 10 of Act 51 governs the distribution of MTF revenue. The section currently directs MTF revenue to the State Trunkline Fund, to other state transportation funds and programs, and to local road agencies (county road commissions, cities and villages). One of the distributions in Section 10 is a \$2.0 million earmark to the Local Agency Wetland Mitigation Bank Fund established in Section 11h. The fund and related wetland mitigation program, and the annual MTF earmark, were established in Senate Bill 105 of the 2015-2016 Legislative Session, enacted as Public Act 246 of 2016.¹

FISCAL IMPACT:

MTF revenue is generated primarily from motor fuel taxes and vehicle registration taxes. Estimated FY 2018-19 MTF revenue is approximately \$3.0 billion. Senate Bill 995 would not change total MTF revenue and it would not change the distribution of MTF revenue, other than by redesignating one of the current program earmarks; the \$2.0 million MTF earmark for the *Local Agency Wetland Mitigation Bank Fund* would be replaced by a \$2.0 million MTF earmark for the *Local Agency Wetland Mitigation Board Fund* established in Section 11h. This is a program of benefit to local road agencies. The bill does not directly affect the Michigan Department of Transportation.

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

¹ See <http://legislature.mi.gov/doc.aspx?2015-SB-0105>