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House Bill 4605 (Substitute H-2 as discharged)
House Bill 4606 (Substitute H-19 as discharged)
Sponsor: Representative Nate Shannon (H.B. 4605)
Representative Alabas A. Farhat (H.B. 4606)
House Committee: Local Government and Municipal Finance
Senate Committee: Finance, Insurance, and Consumer Protection (discharged)

CONTENT

House Bill 4605 (H-2) would amend the General Sales Tax to require the Department of Treasury, beginning with the State's 2024 Fiscal Year, to deposit 1.5% of the tax imposed at a rate of 4% in the Public Safety and Violence Prevention Fund proposed by House Bill 4606 (H-19) and to distribute the money as proposed by House Bill 4606 (H-19).

(Generally, the General Sales Tax Act requires money received and collected under the Act to be deposited into the State Treasury to the credit of the General Fund, unless specified otherwise.)

House Bill 4606 (H-19) would amend the Michigan Trust Fund Act to do the following:

- Create the Public Safety and Violence Prevention Fund within the Department of Treasury and require the Department of Treasury to direct the investment of the Fund.
- Specify that the Fund would consist of money deposited under the General Sales Tax Act proposed by House Bill 4605 (H-2), donations made to, and investments and earnings from the Fund.
- Specify that money in the Fund at the close of the fiscal year would remain in the Fund and would not lapse into the General Fund.
- By September 30, 2024, and March 31, 2025, and then annually on each of those dates, subject to appropriation, require the State Treasurer to distribute 6.5% of the revenue deposited into the Fund in the previous two quarters of that fiscal year to the Department of Health and Human Services (DHHS) to create and administer a grant program for advancing public health and interventions to community violence.
- By September 30, 2024, and March 31, 2025, and then annually on each of those dates, subject to appropriation, require the State Treasurer to distribute 2% of the revenue deposited into the Public Safety and Violence Prevention Fund in the previous two quarters of that fiscal year to be distributed to the Crime Victim's Rights Fund under the Crime Victim's Rights Act.
- Require the State Treasurer to deposit the revenue remaining in the Fund after distribution to the DHHS and the Crime Victim's Rights Fund, upon appropriation, to distribute funds in September and March of each year to municipalities that provide or contract to provide police services in proportion to the municipalities average share of the reported statewide violent crime reports.
- Between October 1, 2026, and September 30, 2028, require the State Treasurer to reduce a municipality's funding distribution by 5% if the municipality did not lower its violent crime rate by at least 5% of the base crime level and specify that the Treasurer would have to reallocate the reduced amount to municipalities without reduced funding.
- Allow a municipality that received a grant from the DHHS for advancing public health and intervention solutions to community violence to subgrant all or part of the grant and

- specify that a grant recipient municipality could not use the grant to obtain certain tactical police vehicles.
- Prescribe how a municipality could use a distribution from the Fund.
- For each fiscal year after September 30, 2024, require the Governor and the State Budget Director to include an appropriation directing the State Treasurer to distribute funds from the Fund.

The bills are tie-barred.

MCL 205.75 (H.B. 4605)
12.252 et al. (H.B. 4606)

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bills would reduce General Fund revenue and increase revenue to the Public Safety and Violence Prevention Fund by approximately \$106.7 million in Fiscal Year (FY) 2023-24 and \$107.7 million in FY 2024-25, with the amount increasing in future years assuming sales tax revenue increased.

The bills would require money in the Fund to be distributed as follows:

- 1) 6.5% to the DHHS to create and administer a grant program to local units for advancing public health and community violence; based on the May 2024 consensus estimates, these distributions would total \$6.9 million in FY 2023-24 and \$7.0 million in FY 2024-25.
- 2) 2.0% to the Crime Victim's Rights Fund; based on the May 2024 consensus estimates, these distributions would total \$2.1 million in FY 2023-24 and \$2.2 million in FY 2024-25.
- 3) 91.5% would be distributed to cities, villages, townships, and, for townships that do not provide or contract to provide police services, counties based on each local unit's average share of violent crimes reported in the three most recent annual crime reports published by the Department of State Police; based on the May 2024 consensus estimates, these distributions would total \$97.6 million in FY 2023-24 and \$98.5 million in FY 2024-25.

As a result of the bills' distributions to local units, the bills also would increase local unit revenue each year, although the net impact would depend on several assumptions ranging from the level of payments appropriated and if distributions under the bills completely or partially replaced nonconstitutional revenue sharing payments (which are already available to be spent on local public safety efforts) made under current law. For the grants, the bills do not specify any eligibility requirements for recipient units and the only prohibition on the use of the funds is that grant funds could not be used to purchase a vehicle that weighs more than 15,000 pounds and was designed or used for a tactical police purpose. (Distributions made from the 91.5% distributed to local units would face greater restrictions and prohibitions: for example, those distributions could not be used to purchase facial recognition technology, although presumably facial recognition technology could be purchased using the DHHS grant money.)

The actual amount distributed under the bills to any of the three purposes would depend on the amount appropriated in the budget. While the bills would compel the Executive branch budget proposal to recommend an appropriation that would fully exhaust the Public Safety and Violence Prevention Fund, statute may not compel appropriations and the ability of the appropriation to support exhausting the Fund would depend on the degree to which actual revenue matched forecasted revenue at the time of the appropriation. If the appropriation were insufficient (i.e., sales tax collections exceeded the expected level), the Fund would not

be exhausted. Conversely, if sales tax collections were less than expected, the Fund would be exhausted, and presumably local units would receive less than appropriated—although the bills do not indicate how payments should be adjusted to account for any shortfalls.

Distributions related to police services to specific local units would be calculated on each local unit's share of average share of violent crimes statewide; however, the bills do not provide an explicit formula, only indicating that such distributions should be "at least proportional" to the local unit's "average share" of statewide crimes. The bills do not define the term "average share" and it is unclear how the Department of Treasury would determine if a distribution were "at least proportional" to the average share.

Because the police services distributions would be based on crime statistics published for violent crimes, the distributions would depend on local units' compliance with reporting crimes as well as how crimes are classified. In 2022, there were 561 active law enforcement agencies in reporting status, of which 512 agencies submitted either complete or partial data. The bills would distribute revenue on the most recent reports for which data were available and do not include provisions for how to address if a local unit failed to submit data or had not submitted data in a timely manner. Incidents are often reported in manners in which it is unclear of how to classify the data for distribution purposes: for example, the 2022 Crime Report indicates nine violent crimes were committed in the G. Robert Cotton Correctional Facility. It is unclear if under the bills these incidents would be attributed to Blackman Township and used to calculate Blackman Township's distribution. Similarly, 22 violent crimes were reported under the University of Michigan–Ann Arbor. It is unclear how these incidents would or would not be include in the distribution calculation.

Under the reports that would be used for the police services distributions, violent crimes are defined as murder, rape, robbery, and aggravated assault. Under the reports, violent crimes do not include several crimes that could be considered violent to some individuals, such as burglary (including burglary with explosives), larceny, kidnapping, human trafficking, arson, stalking, etc. The distributions also would reflect how local units elect to classify a crime, meaning that distinctions between robbery and burglary would now have implications for not just criminal prosecution but for the distribution of sales tax revenue.

Beginning in FY 2025-26, the bills would allow police services distributions to an individual local unit to be reduced if the individual local unit failed to reduce its crime level by at least 5% from the base crime level. The base crime level would be defined as the two highest annual rates of violent crime published in the three most recent years before the bills take effect. The bills would not require a reduction from the prior year's crime rates, only from the base crime level. As a result, if a local unit's crime level in 2026 was at least 5% less than the base year, the bills would not require additional reductions in future years if in those future years the crime rate was still less than 5% below the base year. For example, if a local unit's crime rate in FY 2025-26 had fallen by 15% relative to the base year, and in FY 2026-27, the local unit's crime rate went up, so that it was only down 6% from the base year, the bills would not require a reduction in the payment. Similarly, if a local unit reduced its crime rate to 95% of the base level and it remained at that same level in all future years, the local unit would continue to receive the full amount under the formula. (With respect to the distribution reduction provisions, the crime report data specifically notes: "Users are cautioned against performing trend analysis or ranking agencies/cities, especially for those agencies/cities that indicate a significant increase or decrease in yearly crime counts. When analyzing crime changes, one should consider missing data, population density/composition/stability, urbanization, modes of transportation, economic conditions, cultural characteristics, family cohesiveness, climate, strength and policies of the criminal justice system, and crime reporting practices of the citizenry.")

Additionally, the reduction language refers to the "rate of violent crime" as does the definition of "base crime level". Thus, the language would apparently distribute money according to the number of incidents but would base the reductions upon changes in rates; however, when the crime reports report data for local units, the reports do not report "rates" but only the number of crimes (on an incident basis). Crime rates are typically based on population counts and the reports note the population figures provided by the Federal Bureau of Investigation may not align with the population living within a local unit's boundaries. It is unclear how the reduction language would be enforced or interpreted, given there is a difference between a single murder in a community with 500 residents and a community with 100,000 residents.

Furthermore, depending on the growth in sales tax collections, a local unit could receive a payment reduction under the provisions of the bill and still receive more money than was distributed in a previous year. For example, if in FY 2025-26 a local unit had experienced no reduction in crime from the base crime level and sales tax collections grew by more than 5%, the local unit would receive more money than it received in the previous year, even after the 5% reduction.

In addition to the distribution reductions for failing to reduce the crime rate, the bills also would limit the amount of money a single unit could receive to 25% of the total. The bills do not provide a formula or guidance as to how, or if, the distribution to other local units should be altered due to the 25% cap. In the case of distribution reductions for failing to reduce the crime rate, the bills also do not provide a formula for how distributions should be modified in the event of one or more units receiving a reduction, but instead indicate that the Department should "proportionally reallocate" the money across units not facing a reduction. Under the bills, it is unclear on what basis the proportion should be calculated. One facet of the proposed redistribution mechanism is that while the bills provide funds to local units presumably to reduce crime rates, the redistribution mechanism would increase distributions to local units where crime rates had fallen at the expense of local units where crime did not fall, effectively reducing revenue to local units who would presumably have a greater need of the funds and distributing it to those which presumably have less need.

The bill would have a negative fiscal impact on the Department of Treasury. The administration of the Public Safety and Violence Prevention Fund, including the tracking of eligible units and disbursements, could require one or more additional full-time equivalents (FTEs). The average annual cost of an FTE is approximately \$139,100. In addition, it is likely that these activities would result in increased administrative costs. A portion of these costs could be covered by existing appropriations; however, the magnitude of these costs would depend in part on the degree of collaboration between the Department of Treasury, the Michigan State Police, and local entities, and could require additional appropriations.

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