

SUBSTITUTE FOR
HOUSE BILL NO. 4631

A bill to amend 1951 PA 51, entitled

"An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund,

critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts,"

by amending the title and section 11 (MCL 247.661), the title as amended by 1997 PA 79 and section 11 as amended by 2002 PA 639.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to provide for the classification of all public
3 roads, streets, and highways in this state, and for the revision
4 of that classification and for additions to and deletions from
5 each classification; to set up and establish the Michigan
6 transportation fund; to provide for the deposits in the Michigan
7 transportation fund of specific taxes on motor vehicles and motor
8 vehicle fuels; to provide for the allocation of funds from the
9 Michigan transportation fund and the use and administration of
10 the fund for transportation purposes; **to make appropriations;** to
11 set up and establish the truck safety fund; to provide for the
12 allocation of funds from the truck safety fund and administration
13 of the fund for truck safety purposes; to set up and establish
14 the Michigan truck safety commission; to establish certain
15 standards for road contracts for certain businesses; to provide

1 for the continuing review of transportation needs within the
2 state; to authorize the state transportation commission,
3 counties, cities, and villages to borrow money, issue bonds, and
4 make pledges of funds for transportation purposes; to authorize
5 counties to advance funds for the payment of deficiencies
6 necessary for the payment of bonds issued under this act; to
7 provide for the limitations, payment, retirement, and security of
8 the bonds and pledges; to provide for appropriations and tax
9 levies by counties and townships for county roads; to authorize
10 contributions by townships for county roads; to provide for the
11 establishment and administration of the state trunk line fund,
12 critical bridge fund, comprehensive transportation fund, and
13 certain other funds; to provide for the deposits in the state
14 trunk line fund, critical bridge fund, comprehensive
15 transportation fund, and certain other funds of money raised by
16 specific taxes and fees; to provide for definitions of public
17 transportation functions and criteria; to define the purposes for
18 which Michigan transportation funds may be allocated; to provide
19 for Michigan transportation fund grants; to provide for review
20 and approval of transportation programs; to provide for
21 submission of annual legislative requests and reports; to provide
22 for the establishment and functions of certain advisory entities;
23 to provide for conditions for grants; to provide for the issuance
24 of bonds and notes for transportation purposes; to provide for
25 the powers and duties of certain state and local agencies and
26 officials; to provide for the making of loans for transportation
27 purposes by the state transportation department and for the

1 receipt and repayment by local units and agencies of those loans
2 from certain specified sources; and to repeal acts and parts of
3 acts.

4 Sec. 11. (1) A fund to be known as the state trunk line
5 fund is established and shall be set up and maintained in the
6 state treasury as a separate fund. The money deposited in the
7 state trunk line fund is appropriated to the state transportation
8 department for the following purposes in the following order of
9 priority:

10 (a) For the payment, but only from money restricted as to use
11 by section 9 of article IX of the state constitution of 1963, of
12 bonds, notes, or other obligations in the following order of
13 priority:

14 (i) For the payment of contributions required to be made by
15 the state highway commission or the state transportation
16 commission under contracts entered into before July 18, 1979,
17 under 1941 PA 205, MCL 252.51 to 252.64, which contributions have
18 been pledged before July 18, 1979, for the payment of the
19 principal and interest on bonds issued under 1941 PA 205,
20 MCL 252.51 to 252.64, for the payment of which a sufficient sum
21 is irrevocably appropriated.

22 (ii) For the payment of the principal and interest upon bonds
23 designated "State of Michigan, State Highway Commissioner,
24 Highway Construction Bonds, Series I", dated September 1, 1956,
25 in the aggregate principal amount of \$25,000,000.00, issued
26 pursuant to former 1955 PA 87 and the resolution of the state
27 administrative board adopted August 6, 1956, for the payment of

1 which a sufficient sum is irrevocably appropriated.

2 (iii) For the payment of the principal and interest on bonds
3 issued under section 18b for transportation purposes other than
4 comprehensive transportation purposes as defined by law and the
5 payment of contributions of the ~~state highway commission or~~
6 state transportation commission to be made pursuant to contracts
7 entered into under section 18d, which contributions are pledged
8 to the payment of principal and interest on bonds issued under
9 the authorization of section 18d and contracts executed pursuant
10 to that section. A sufficient portion of the fund is irrevocably
11 appropriated to pay, when due, the principal and interest on
12 bonds or notes issued under section 18b for purposes other than
13 comprehensive transportation purposes as defined by law, and to
14 pay the annual contributions of ~~the state highway commission~~
15 ~~and~~ the state transportation commission as are pledged for the
16 payment of bonds issued pursuant to contracts authorized by
17 section 18d.

18 (b) For the transfer of funds appropriated pursuant to
19 section 10(1)(g) to the transportation economic development fund,
20 but the transfer shall be reduced each fiscal year by the amount
21 of debt service to be paid in that year from the state trunk line
22 fund for bonds, notes, or other obligations issued to fund
23 projects of the transportation economic development fund, which
24 amount shall be certified by the department.

25 (c) For the transfer of funds appropriated pursuant to
26 section 10(1)(a) to the railroad grade crossing account in the
27 state trunk line fund for expenditure for rail grade crossing

1 improvement purposes at rail grade crossings on public roads and
2 streets under the jurisdiction of the state, counties, cities, or
3 villages. Projects shall be selected for funding in accordance
4 with the following:

5 (i) Not more than 50% or less than 30% of these funds and
6 matched federal funds shall be expended for state trunk line
7 projects.

8 (ii) In prioritizing projects for these funds, in whole or in
9 part, the department shall consider train and vehicular traffic
10 volumes, accident history, traffic control device improvement
11 needs, and the availability of funding.

12 (iii) Consistent with the other requirements for these funds,
13 the first priority for funds deposited pursuant to this
14 subdivision for rail grade crossing improvements and retirement
15 shall be to match federal funds from the railroad-highway grade
16 crossing improvement program or other comparable federal programs
17 if a match is required under federal law.

18 (iv) If the department and the road authority with
19 jurisdiction over the crossing formally agree that the grade
20 crossing should be eliminated by permanent closing of the public
21 road or street, the physical removal of the crossing, roadway
22 within railroad rights of way and street termination treatment
23 will be negotiated between the road authority and railroad
24 company. The funds provided to the road authority as a result of
25 the crossing closure will be credited to its account representing
26 the same road or street system on which the crossing is located
27 and shall be used for any transportation purpose within that road

1 authority's jurisdiction.

2 (d) For the total operating expenses of the state trunk line
3 fund for each fiscal year as appropriated by the legislature.

4 (e) Beginning for the state fiscal year that starts October
5 1, 2003, not less than \$5,250,000.00 annually appropriated to the
6 Mackinac bridge authority created in section 2 of 1950 (Ex Sess)
7 PA 21, MCL 254.302, to be used for capital improvement purposes.

8 (f) ~~-(e)-~~ For the preservation of state trunk line highways
9 and bridges.

10 (g) ~~-(f)-~~ For the opening, widening, improving, construction,
11 and reconstruction of state trunk line highways and bridges,
12 including the acquisition of necessary rights of way and the work
13 incidental to that opening, widening, improving, construction, or
14 reconstruction. Those sums in the state trunk line fund not
15 otherwise appropriated, distributed, determined, or set aside by
16 law shall be used for the construction or reconstruction of the
17 national system of interstate and defense highways, referred to
18 in this act as "the interstate highway system" to the extent
19 necessary to match federal aid funds as the federal aid funds
20 become available for that purpose; and, for the construction and
21 reconstruction of the state trunk line system.

22 (h) ~~-(g)-~~ The state transportation department may enter into
23 agreements with county road commissions and with cities and
24 villages to perform work on a highway, road, or street. The
25 agreements may provide for the performance by any of the
26 contracting parties of any of the work contemplated by the
27 contract including engineering services and the acquisition of

1 rights of way in connection with the work, by purchase or
2 condemnation by any of the contracting parties in its own name,
3 and for joint participation in the costs, but only to the extent
4 that the contracting parties are otherwise authorized by law to
5 expend money on the highways, roads, or streets. The state
6 transportation department also may contract with a county road
7 commission, city, and village to advance money to a county road
8 commission, city, and village to pay their costs of improving
9 railroad grade crossings on the terms and conditions agreed to in
10 the contract. A contract may be executed before or after the
11 state transportation commission borrows money for the purpose of
12 advancing money to a county road commission, city, or village,
13 but the contract shall be executed before the advancement of any
14 money to a county road commission, city, or village by the state
15 transportation commission, and shall provide for the full
16 reimbursement of any advancement by a county road commission,
17 city, or village to the state transportation department, with
18 interest, within 15 years after advancement, from any available
19 revenue sources of the county road commission, city, or village
20 or, if provided in the contract, by deduction from the periodic
21 disbursements of any money returned by the state to the county
22 road commission, city, or village.

23 **(i)** ~~—(h)—~~ For providing inventories of supplies and materials
24 required for the activities of the state transportation
25 department. The state transportation department may purchase
26 supplies and materials for these purposes, with payment to be
27 made out of the state trunk line fund to be charged on the basis

1 of issues from inventory in accordance with the accounting and
2 purchasing laws of this state.

3 (2) Notwithstanding any other provision of this act, at least
4 90% of state revenue appropriated annually to the state trunk
5 line fund less the amounts described in subdivisions (a) to (i)
6 shall be expended annually by the state transportation department
7 for the preservation of highways, roads, streets, and bridges and
8 for the payment of debt service on bonds, notes, or other
9 obligations described in subsection (1)(a) issued after July 1,
10 1983, for the purpose of providing funds for the preservation of
11 highways, roads, streets, and bridges. Of the amounts
12 appropriated for state trunk line projects, the department shall,
13 where possible, secure warranties of not less than 5-year full
14 replacement guarantee for contracted construction work. If an
15 appropriate certificate is filed under section 18e but only to
16 the extent necessary, this subsection shall not prohibit the use
17 of any amount of money restricted as to use by section 9 of
18 article IX of the state constitution of 1963 and deposited in the
19 state trunk line fund for the payment of debt service on bonds,
20 notes, or other obligations pledging for the payment thereof
21 money restricted as to use by section 9 of article IX of the
22 state constitution of 1963 and deposited in the state trunk line
23 fund, whenever issued, as specified under subsection (1)(a). The
24 amounts ~~which~~ **that** are deducted from the state trunk line fund
25 for the purpose of the calculation required by this subsection
26 are as follows:

27 (a) Amounts expended for the purposes described in subsection

1 (1)(a) for the payment of debt service on bonds, notes, or other
2 obligations issued before July 2, 1983.

3 (b) Amounts expended to provide the state matching
4 requirement for projects on the national highway system and for
5 the payment of debt service on bonds, notes, or other obligations
6 issued after July 1, 1983, for the purpose of providing funds for
7 the state matching requirements for projects on the national
8 highway system.

9 (c) Amounts expended for the construction of a highway,
10 street, road, or bridge to 1 or more of the following or for the
11 payment of debt service on bonds, notes, or other obligations
12 issued after July 1, 1983, for the purpose of providing funds for
13 the construction of a highway, street, road, or bridge to 1 or
14 more of the following:

15 (i) A location for which a building permit has been obtained
16 for the construction of a manufacturing or industrial facility.

17 (ii) A location for which a building permit has been obtained
18 for the renovation of, or addition to, a manufacturing or
19 industrial facility.

20 (d) Amounts expended for capital outlay other than for
21 highways, roads, streets, and bridges or to pay debt service on
22 bonds, notes, or other obligations issued after July 1, 1983, for
23 the purpose of providing funds for capital outlay other than for
24 highways, roads, streets, and bridges.

25 (e) Amounts expended for the operating expenses of the state
26 transportation department other than the units of the department
27 performing the functions assigned on January 1, 1983 to the

1 bureau of highways.

2 (f) Amounts expended pursuant to contracts entered into
3 before January 1, 1983.

4 (g) Amounts expended for the purposes described in subsection
5 (5).

6 (h) Amounts appropriated for deposit in the transportation
7 economic development fund and the rail grade crossing account
8 pursuant to section 10(1)(g) and 10(1)(a).

9 (i) Upon the affirmative recommendation of the director of
10 the state transportation department and the approval by
11 resolution of the state transportation commission, those amounts
12 expended for projects vital to the economy of this state, a
13 region, or local area or the safety of the public. The
14 resolution shall state the cost of the project exempted from this
15 subsection.

16 (3) Notwithstanding any other provision of this act, the
17 state transportation department shall expend annually at least
18 90% of the federal revenue distributed to the credit of the state
19 trunk line fund in that year, except for federal revenue expended
20 for the purposes described in subsection (2)(b), (c), (f), and
21 (i) and for the payment of notes issued under section 18b(9) on
22 the preservation of highways, roads, streets, and bridges. The
23 requirement of this subsection shall be waived if compliance
24 would cause this state to be ineligible according to federal law
25 for federal revenue, but only to the extent necessary to make
26 this state eligible according to federal law for that revenue.

27 (4) Notwithstanding any other provision of this section, the

1 state transportation department may loan money to county road
2 commissions, cities, and villages for paying capital costs of
3 transportation purposes described in the second paragraph of
4 section 9 of article IX of the state constitution of 1963 from
5 the proceeds of bonds or notes issued pursuant to section 18b or
6 from the state trunk line fund. Loans made directly from the
7 state trunk line fund shall be made only after provision of funds
8 for the purposes specified in subsection (1)(a) to ~~-(f)-~~ **(g)**.
9 Loans described in this subsection are not subject to the revised
10 municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

11 (5) County road commissions, cities, and villages may borrow
12 money from the proceeds of bonds or notes issued under section
13 18b or the state trunk line fund for the purposes set forth in
14 subsection (4) that shall be repayable, with interest, from 1 or
15 more of the following:

16 (a) The money to be received by the county road commission,
17 city, or village from the Michigan transportation fund, except to
18 the extent the money has been or may in the future be pledged by
19 contract in accordance with 1941 PA 205, MCL 252.51 to 252.64, or
20 has been or may in the future be pledged for the payment of the
21 principal and interest upon notes issued pursuant to 1943 PA 143,
22 MCL 141.251 to 141.254, or has been or may in the future be
23 pledged for the payment of principal and interest upon bonds
24 issued under section 18c or 18d, or has been or may in the future
25 be pledged for the payment of the principal and interest upon
26 bonds issued pursuant to 1952 PA 175, MCL 247.701 to 247.707.

27 (b) Any other legally available funds of the city, village,

1 or county road commission, other than the general funds of the
2 county.

3 (6) Loans made pursuant to subsection (4) if required by the
4 state transportation department may be payable by deduction by
5 the state treasurer, upon direction of the state transportation
6 department, from the periodic disbursements of any money returned
7 by the state under this act to the county road commission, city,
8 or village, but only after sufficient money has been returned to
9 the county road commission, city, or village to provide for the
10 payment of contractual obligations incurred or to be incurred and
11 principal and interest on notes and bonds issued or to be issued
12 under 1941 PA 205, MCL 252.51 to 252.64, 1943 PA 143, MCL 141.251
13 to 141.254, 1952 PA 175, MCL 247.701 to 247.707, or section 18c
14 or 18d. The interest rates and payment schedules of any loans
15 made from the proceeds of bonds or notes issued pursuant to
16 section 18b shall be established by the state transportation
17 department to conform as closely as practicable to the interest
18 rate and repayment schedules on the bonds or notes issued to make
19 the loans. However, the state transportation department may
20 allow for the deferral of the first payment of interest or
21 principal on the loans for a period of not to exceed 1 year after
22 the respective first payment of interest or principal on the
23 bonds or notes issued to make the loans.

24 (7) The amount borrowed by a county road commission, city, or
25 village pursuant to subsection (5) shall not be included in, or
26 charged against, any constitutional, statutory, or charter debt
27 limitation of the county, city, or village and shall not be

1 included in the determination of the maximum annual principal and
2 interest requirements of, or the limitations upon, the maximum
3 annual principal and interest incurred under 1941 PA 205,
4 MCL 252.51 to 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952
5 PA 175, MCL 247.701 to 247.707, or section 18c or 18d.

6 (8) The county road commission, city, or village is not
7 required to seek or obtain the approval of the electors, the
8 municipal finance commission or its successor agency, or, except
9 as provided in this subsection, the department of treasury to
10 borrow money pursuant to subsection (5). The borrowing is not
11 subject to the revised municipal finance act, 2001 PA 34,
12 MCL 141.2101 to 141.2821, or to section 5(g) of the home rule
13 city act, 1909 PA 279, MCL 117.5. The state transportation
14 department shall give at least 10 days' notice to the state
15 treasurer of its intention to make a loan under subsection (4).
16 If the state treasurer gives notice to the director of the state
17 transportation department within 10 days of receiving the notice
18 from the state transportation department, that, based upon the
19 then existing financial or credit situation of the county road
20 commission, city, or village, it would not be in the best
21 interests of the state to make a loan under subsection (4) to the
22 county road commission, city, or village, the loan shall not be
23 made unless the state treasurer, after a hearing, if requested by
24 the affected county road commission, city, or village,
25 subsequently gives notice to the director of the state
26 transportation department that the loan may be made on the
27 conditions that the state treasurer specifies.

1 (9) The state transportation commission may borrow money and
2 issue bonds and notes under, and pursuant to the requirements of,
3 section 18b to make loans to county road commissions, cities, and
4 villages for the purposes described in the second paragraph of
5 section 9 of article IX of the state constitution of 1963, as
6 provided in subsection (4). A single issue of bonds or notes may
7 be issued for the purposes specified in subsection (4) and for
8 the other purposes specified in section 18b. The house and
9 senate transportation appropriations subcommittees shall be
10 notified by the department if there are extras and overruns
11 sufficient to require approval of either the state administrative
12 board or the commission, or both, on any contract between the
13 department and a local road agency or a private business.

14 (10) The director of the state transportation department,
15 after consultation with representatives of the interests of
16 county road commissions, cities, and villages, shall establish,
17 by intergovernmental communication, procedures for the
18 implementation and administration of the loan program established
19 under subsections (4) to (9).

20 (11) Not more than 10% per year of all of the funds received
21 by and returned to the state transportation department from any
22 source for the purposes of this section may be expended for
23 administrative expenses. The department shall be subject to
24 section 14(5) if more than 10% per year is expended for
25 administrative expenses. As used in this subsection,
26 "administrative expenses" means those expenses that are not
27 assigned including, but not limited to, specific road

1 construction or preservation projects and are often referred to
2 as general or supportive services. Administrative expenses shall
3 not include net equipment expense, net capital outlay, debt
4 service principal and interest, and payments to other state or
5 local offices which are assigned, but not limited to, specific
6 road construction projects or preservation activities.

7 (12) Any performance audits of the department shall be
8 conducted according to government auditing standards issued by
9 the United States general accounting office.

10 (13) Contracts entered into to advance money to a county road
11 commission, city, or village under subsection ~~-(1)(g)-~~ (1)(h) are
12 not subject to the revised municipal finance act, 2001 PA 34,
13 MCL 141.2101 to 141.2821.

14 (14) As used in this section, "rail grade crossing
15 improvement purposes" means 1 or more of the following:

16 (a) The installation and modernization of active and passive
17 warning devices at railroad grade crossings.

18 (b) The installation or improvement of grade crossing
19 surfaces.

20 (c) Modification, relocation, or modernization of railroad
21 grade crossing active and passive warning devices necessitated by
22 roadway improvement projects.

23 (d) Test installations of innovative warning devices or other
24 innovative applications.

25 (e) Construction of new grade separations.

26 (f) A cash incentive payment made pursuant to subsection
27 (1)(c)(iv) for any public road or street crossing, in an amount

1 no greater than the cost of installing flashing light signals and
2 half roadway gates at the crossing.

3 (g) Any other work that would be eligible for funding under
4 the federal railroad-highway grade crossing improvement program
5 or other comparable programs.