

HOUSE BILL No. 4631

May 6, 2003, Introduced by Reps. Shackleton, Stahl, Pastor, Pappageorge, Walker and Farhat and referred to the Committee on Transportation.

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 section 11 (MCL 247.661), as amended by 2002 PA 639.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

11 (i) For the payment of contributions required to be made by
12 the state highway commission or the state transportation
13 commission under contracts entered into before July 18, 1979,
14 under 1941 PA 205, MCL 252.51 to 252.64, which contributions have
15 been pledged before July 18, 1979, for the payment of the
16 principal and interest on bonds issued under 1941 PA 205,

1 MCL 252.51 to 252.64, for the payment of which a sufficient sum
2 is irrevocably appropriated.

3 (ii) For the payment of the principal and interest upon bonds
4 designated "State of Michigan, State Highway Commissioner,
5 Highway Construction Bonds, Series I", dated September 1, 1956,
6 in the aggregate principal amount of \$25,000,000.00, issued
7 pursuant to former 1955 PA 87 and the resolution of the state
8 administrative board adopted August 6, 1956, for the payment of
9 which a sufficient sum is irrevocably appropriated.

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

26 (b) For the transfer of funds appropriated pursuant to
27 section 10(1)(g) to the transportation economic development fund,

1 but the transfer shall be reduced each fiscal year by the amount
2 of debt service to be paid in that year from the state trunk line
3 fund for bonds, notes, or other obligations issued to fund
4 projects of the transportation economic development fund, which
5 amount shall be certified by the department.

6 (c) For the transfer of funds appropriated pursuant to
7 section 10(1)(a) to the railroad grade crossing account in the
8 state trunk line fund for expenditure for rail grade crossing
9 improvement purposes at rail grade crossings on public roads and
10 streets under the jurisdiction of the state, counties, cities, or
11 villages. Projects shall be selected for funding in accordance
12 with the following:

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

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

20 (iii) Consistent with the other requirements for these funds,
21 the first priority for funds deposited pursuant to this
22 subdivision for rail grade crossing improvements and retirement
23 shall be to match federal funds from the railroad-highway grade
24 crossing improvement program or other comparable federal programs
25 if a match is required under federal law.

26 (iv) If the department and the road authority with
27 jurisdiction over the crossing formally agree that the grade

1 crossing should be eliminated by permanent closing of the public
2 road or street, the physical removal of the crossing, roadway
3 within railroad rights of way and street termination treatment
4 will be negotiated between the road authority and railroad
5 company. The funds provided to the road authority as a result of
6 the crossing closure will be credited to its account representing
7 the same road or street system on which the crossing is located
8 and shall be used for any transportation purpose within that road
9 authority's jurisdiction.

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

12 (e) **Beginning for the state fiscal year that starts October**
13 **1, 2003, not less than \$5,250,000.00 annually appropriated to the**
14 **Mackinac bridge authority created in section 2 of 1950 (Ex Sess)**
15 **PA 21, MCL 254.302, to be used to reduce the toll charged.**

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

18 (g) ~~-(f)-~~ For the opening, widening, improving, construction,
19 and reconstruction of state trunk line highways and bridges,
20 including the acquisition of necessary rights of way and the work
21 incidental to that opening, widening, improving, construction, or
22 reconstruction. Those sums in the state trunk line fund not
23 otherwise appropriated, distributed, determined, or set aside by
24 law shall be used for the construction or reconstruction of the
25 national system of interstate and defense highways, referred to
26 in this act as "the interstate highway system" to the extent
27 necessary to match federal aid funds as the federal aid funds

1 become available for that purpose; and, for the construction and
2 reconstruction of the state trunk line system.

3 **(h)** ~~—(g)—~~ The state transportation department may enter into
4 agreements with county road commissions and with cities and
5 villages to perform work on a highway, road, or street. The
6 agreements may provide for the performance by any of the
7 contracting parties of any of the work contemplated by the
8 contract including engineering services and the acquisition of
9 rights of way in connection with the work, by purchase or
10 condemnation by any of the contracting parties in its own name,
11 and for joint participation in the costs, but only to the extent
12 that the contracting parties are otherwise authorized by law to
13 expend money on the highways, roads, or streets. The state
14 transportation department also may contract with a county road
15 commission, city, and village to advance money to a county road
16 commission, city, and village to pay their costs of improving
17 railroad grade crossings on the terms and conditions agreed to in
18 the contract. A contract may be executed before or after the
19 state transportation commission borrows money for the purpose of
20 advancing money to a county road commission, city, or village,
21 but the contract shall be executed before the advancement of any
22 money to a county road commission, city, or village by the state
23 transportation commission, and shall provide for the full
24 reimbursement of any advancement by a county road commission,
25 city, or village to the state transportation department, with
26 interest, within 15 years after advancement, from any available
27 revenue sources of the county road commission, city, or village

1 or, if provided in the contract, by deduction from the periodic
2 disbursements of any money returned by the state to the county
3 road commission, city, or village.

4 (i) ~~-(h)-~~ For providing inventories of supplies and materials
5 required for the activities of the state transportation
6 department. The state transportation department may purchase
7 supplies and materials for these purposes, with payment to be
8 made out of the state trunk line fund to be charged on the basis
9 of issues from inventory in accordance with the accounting and
10 purchasing laws of this state.

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

1 notes, or other obligations pledging for the payment thereof
2 money restricted as to use by section 9 of article IX of the
3 state constitution of 1963 and deposited in the state trunk line
4 fund, whenever issued, as specified under subsection (1)(a). The
5 amounts ~~which~~ **that** are deducted from the state trunk line fund
6 for the purpose of the calculation required by this subsection
7 are as follows:

8 (a) Amounts expended for the purposes described in subsection
9 (1)(a) for the payment of debt service on bonds, notes, or other
10 obligations issued before July 2, 1983.

11 (b) Amounts expended to provide the state matching
12 requirement for projects on the national highway system and for
13 the payment of debt service on bonds, notes, or other obligations
14 issued after July 1, 1983, for the purpose of providing funds for
15 the state matching requirements for projects on the national
16 highway system.

17 (c) Amounts expended for the construction of a highway,
18 street, road, or bridge to 1 or more of the following or for the
19 payment of debt service on bonds, notes, or other obligations
20 issued after July 1, 1983, for the purpose of providing funds for
21 the construction of a highway, street, road, or bridge to 1 or
22 more of the following:

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

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

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

6 (e) Amounts expended for the operating expenses of the state
7 transportation department other than the units of the department
8 performing the functions assigned on January 1, 1983 to the
9 bureau of highways.

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

12 (g) Amounts expended for the purposes described in subsection
13 (5).

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

17 (i) Upon the affirmative recommendation of the director of
18 the state transportation department and the approval by
19 resolution of the state transportation commission, those amounts
20 expended for projects vital to the economy of this state, a
21 region, or local area or the safety of the public. The
22 resolution shall state the cost of the project exempted from this
23 subsection.

24 (3) Notwithstanding any other provision of this act, the
25 state transportation department shall expend annually at least
26 90% of the federal revenue distributed to the credit of the state
27 trunk line fund in that year, except for federal revenue expended

1 for the purposes described in subsection (2)(b), (c), (f), and
2 (i) and for the payment of notes issued under section 18b(9) on
3 the preservation of highways, roads, streets, and bridges. The
4 requirement of this subsection shall be waived if compliance
5 would cause this state to be ineligible according to federal law
6 for federal revenue, but only to the extent necessary to make
7 this state eligible according to federal law for that revenue.

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

19 (5) County road commissions, cities, and villages may borrow
20 money from the proceeds of bonds or notes issued under section
21 18b or the state trunk line fund for the purposes set forth in
22 subsection (4) that shall be repayable, with interest, from 1 or
23 more of the following:

24 (a) The money to be received by the county road commission,
25 city, or village from the Michigan transportation fund, except to
26 the extent the money has been or may in the future be pledged by
27 contract in accordance with 1941 PA 205, MCL 252.51 to 252.64, or

1 has been or may in the future be pledged for the payment of the
2 principal and interest upon notes issued pursuant to 1943 PA 143,
3 MCL 141.251 to 141.254, or has been or may in the future be
4 pledged for the payment of principal and interest upon bonds
5 issued under section 18c or 18d, or has been or may in the future
6 be pledged for the payment of the principal and interest upon
7 bonds issued pursuant to 1952 PA 175, MCL 247.701 to 247.707.

8 (b) Any other legally available funds of the city, village,
9 or county road commission, other than the general funds of the
10 county.

11 (6) Loans made pursuant to subsection (4) if required by the
12 state transportation department may be payable by deduction by
13 the state treasurer, upon direction of the state transportation
14 department, from the periodic disbursements of any money returned
15 by the state under this act to the county road commission, city,
16 or village, but only after sufficient money has been returned to
17 the county road commission, city, or village to provide for the
18 payment of contractual obligations incurred or to be incurred and
19 principal and interest on notes and bonds issued or to be issued
20 under 1941 PA 205, MCL 252.51 to 252.64, 1943 PA 143, MCL 141.251
21 to 141.254, 1952 PA 175, MCL 247.701 to 247.707, or section 18c
22 or 18d. The interest rates and payment schedules of any loans
23 made from the proceeds of bonds or notes issued pursuant to
24 section 18b shall be established by the state transportation
25 department to conform as closely as practicable to the interest
26 rate and repayment schedules on the bonds or notes issued to make
27 the loans. However, the state transportation department may

1 allow for the deferral of the first payment of interest or
2 principal on the loans for a period of not to exceed 1 year after
3 the respective first payment of interest or principal on the
4 bonds or notes issued to make the loans.

5 (7) The amount borrowed by a county road commission, city, or
6 village pursuant to subsection (5) shall not be included in, or
7 charged against, any constitutional, statutory, or charter debt
8 limitation of the county, city, or village and shall not be
9 included in the determination of the maximum annual principal and
10 interest requirements of, or the limitations upon, the maximum
11 annual principal and interest incurred under 1941 PA 205,
12 MCL 252.51 to 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952
13 PA 175, MCL 247.701 to 247.707, or section 18c or 18d.

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

1 commission, city, or village, it would not be in the best
2 interests of the state to make a loan under subsection (4) to the
3 county road commission, city, or village, the loan shall not be
4 made unless the state treasurer, after a hearing, if requested by
5 the affected county road commission, city, or village,
6 subsequently gives notice to the director of the state
7 transportation department that the loan may be made on the
8 conditions that the state treasurer specifies.

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

22 (10) The director of the state transportation department,
23 after consultation with representatives of the interests of
24 county road commissions, cities, and villages, shall establish,
25 by intergovernmental communication, procedures for the
26 implementation and administration of the loan program established
27 under subsections (4) to (9).

1 (11) Not more than 10% per year of all of the funds received
2 by and returned to the state transportation department from any
3 source for the purposes of this section may be expended for
4 administrative expenses. The department shall be subject to
5 section 14(5) if more than 10% per year is expended for
6 administrative expenses. As used in this subsection,
7 "administrative expenses" means those expenses that are not
8 assigned including, but not limited to, specific road
9 construction or preservation projects and are often referred to
10 as general or supportive services. Administrative expenses shall
11 not include net equipment expense, net capital outlay, debt
12 service principal and interest, and payments to other state or
13 local offices which are assigned, but not limited to, specific
14 road construction projects or preservation activities.

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

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

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

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

26 (b) The installation or improvement of grade crossing
27 surfaces.

1 (c) Modification, relocation, or modernization of railroad
2 grade crossing active and passive warning devices necessitated by
3 roadway improvement projects.

4 (d) Test installations of innovative warning devices or other
5 innovative applications.

6 (e) Construction of new grade separations.

7 (f) A cash incentive payment made pursuant to subsection
8 (1)(c)(iv) for any public road or street crossing, in an amount
9 no greater than the cost of installing flashing light signals and
10 half roadway gates at the crossing.

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