

**SUBSTITUTE FOR  
HOUSE BILL NO. 4961**

A bill to amend 1964 PA 286, entitled

"An act to provide for the organization, powers, and duties of the state transportation commission and the state transportation department; to provide for the appointment, powers, and duties of the state transportation director; to abolish the office of state highway commissioner and the commissioner's advisory board and to transfer their powers and duties; to provide for penalties and remedies; and to repeal certain acts and parts of acts,"

by amending the title and sections 1, 6a, 7, 7a, and 10 (MCL 247.801, 247.806a, 247.807, 247.807a, and 247.810), the title as amended by 1984 PA 398 and section 7a as amended by 1981 PA 122, and by adding sections 7b, 7c, 7d, 7e, 7f, 7g, 7h, and 7i.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1

TITLE

1           An act to provide for the organization, powers, and duties of  
 2 the state transportation commission and the state transportation  
 3 department; to provide for the appointment, powers, and duties of  
 4 the state transportation director; to abolish the office of state  
 5 highway commissioner and the commissioner's advisory board and to  
 6 transfer their powers and duties; **TO PROVIDE FOR PUBLIC**  
 7 **TRANSPORTATION FACILITIES; TO PROVIDE FOR THE CREATION OF CERTAIN**  
 8 **AUTHORITIES; TO AUTHORIZE PUBLIC-PRIVATE AGREEMENTS RELATING TO**  
 9 **RESEARCHING, PLANNING, STUDYING, DESIGNING, DEVELOPING, FINANCING,**  
 10 **ACQUIRING, CONSTRUCTING, CHARGING USER FEES, OPERATING, OR**  
 11 **MAINTAINING A PUBLIC TRANSPORTATION FACILITY, OR OTHER ARRANGEMENTS**  
 12 **FOR THE CREATION AND OPERATION OF PUBLIC TRANSPORTATION FACILITIES**  
 13 **THAT MAY BE FINANCED BY USER FEES, CHARGES, AND OTHER REVENUE; TO**  
 14 **PROVIDE FOR THE SALE OF BONDS; TO PROVIDE FOR CERTAIN POWERS OF**  
 15 **CERTAIN STATE DEPARTMENTS;** to provide for penalties and remedies;  
 16 and to repeal ~~certain~~ acts and parts of acts.

17           Sec. 1. As used in this act:

18           (A) ~~(1)~~—"Commission" means the state transportation  
 19 commission.

20           (B) **"CONCESSIONAIRE" MEANS A PRIVATE ENTITY THAT HAS ENTERED**  
 21 **INTO A PUBLIC-PRIVATE AGREEMENT UNDER SECTION 7B.**

22           (C) ~~(2)~~—"Director" means the director of **THE DEPARTMENT OF**  
 23 transportation.

24           (D) ~~(3)~~—"Department" means the department of transportation.

25           (E) **"INSTRUMENTALITY OF GOVERNMENT" MEANS A PUBLIC ENTITY**  
 26 **CREATED OR EMPOWERED TO CARRY OUT FUNCTIONS COMMONLY CARRIED OUT BY**  
 27 **UNITS OF GOVERNMENT, PUBLIC AGENCIES, OR PUBLIC AUTHORITIES.**

1 INSTRUMENTALITY OF GOVERNMENT ADDITIONALLY MEANS THE GOVERNMENT OF  
2 CANADA OR A PUBLIC AGENCY OR PUBLIC AUTHORITY CREATED BY THE  
3 GOVERNMENT OF CANADA OR ANOTHER STATE OF THE UNITED STATES OR A  
4 CORPORATION WITHOUT SHARE CAPITAL CREATED AND EMPOWERED UNDER THE  
5 CANADIAN INTERNATIONAL BRIDGES AND TUNNELS ACT TO CARRY OUT  
6 FUNCTIONS COMMONLY CARRIED OUT BY THE GOVERNMENT OF CANADA.

7 (F) "PRIVATE ENTITY" MEANS ANY NATURAL PERSON, CORPORATION,  
8 GENERAL PARTNERSHIP, LIMITED LIABILITY COMPANY, LIMITED  
9 PARTNERSHIP, JOINT VENTURE, BUSINESS TRUST, PUBLIC BENEFIT  
10 CORPORATION, NONPROFIT ENTITY, OR OTHER NONGOVERNMENTAL BUSINESS  
11 ENTITY.

12 (G) "PUBLIC-PRIVATE AGREEMENT" MEANS AN AGREEMENT BETWEEN A  
13 PRIVATE ENTITY AND THE DEPARTMENT OR BETWEEN A PRIVATE ENTITY, THE  
14 DEPARTMENT, AND 1 OR MORE OTHER INSTRUMENTALITIES OF GOVERNMENT  
15 THAT RELATES TO RESEARCHING, PLANNING, STUDYING, DESIGNING,  
16 DEVELOPING, FINANCING, ACQUIRING, CONSTRUCTING, CHARGING USER FEES,  
17 OPERATING, OR MAINTAINING A PUBLIC TRANSPORTATION FACILITY, OR ANY  
18 COMBINATION OF THOSE ACTIVITIES. PUBLIC-PRIVATE AGREEMENT INCLUDES  
19 AN AGREEMENT BETWEEN THE DEPARTMENT AND 1 OR MORE INSTRUMENTALITIES  
20 OF GOVERNMENT IF THE AGREEMENT IS RELATED TO A PROJECT THAT HAS OR  
21 WILL HAVE AN AGREEMENT BETWEEN THE DEPARTMENT OR AN INSTRUMENTALITY  
22 OF GOVERNMENT AND A PRIVATE ENTITY.

23 (H) "PUBLIC TRANSPORTATION FACILITY" MEANS ANY NEW OR EXISTING  
24 DOMESTIC OR INTERNATIONAL HIGHWAY, LANE, ROAD, BRIDGE, TUNNEL,  
25 OVERPASS, RAMP, INTERCHANGE, FERRY, AIRPORT, VEHICLE PARKING  
26 FACILITY, VEHICLE TRANSPORTATION FACILITY, PORT FACILITY, LOCKS  
27 FACILITY, RAIL FACILITY, INTERMODAL OR OTHER PUBLIC TRANSIT

1 FACILITY, OR ANY OTHER EQUIPMENT, ROLLING STOCK, SITE, OR FACILITY  
2 USED IN THE TRANSPORTATION OF PERSONS, GOODS, SUBSTANCES, VEHICLES,  
3 INFORMATION, OR MATTER OF ANY KIND, AND ANY BUILDING, STRUCTURE,  
4 PARKING AREA, APPURTENANCE, OR OTHER PROPERTY NECESSARY OR  
5 DESIRABLE FOR THE FACILITY.

6 Sec. 6a. The director may do the following:

7 (a) Organize the department and its work, supervise the work  
8 of the employees **AND AGENTS** of the department, create, merge, and  
9 abolish organizational divisions within the department, and  
10 transfer or merge functions among those divisions in the interest  
11 of economy and efficiency.

12 (b) Employ personnel necessary to carry out the duties of the  
13 director and the responsibilities of the department subject to  
14 **CONTRACTUAL OBLIGATIONS AND** laws governing state employment.

15 (c) Delegate to any employee of the department ~~, subject to~~  
16 ~~the approval of the commission,~~ any powers vested in the director  
17 or delegated to the director by the commission **EXCEPT THE POWER TO**  
18 **ENTER INTO A PUBLIC-PRIVATE AGREEMENT UNDER SECTION 7B.**

19 (d) Establish a program of current and long-range planning for  
20 the transportation systems under the department's jurisdiction **AND**  
21 **PUBLIC TRANSPORTATION FACILITIES OF THE DEPARTMENT.**

22 (e) Direct the preparation of budget requests, expenditures,  
23 programs and periodical allotments.

24 (f) Purchase materials, supplies, and equipment. ~~as necessary~~  
25 ~~and proper to carry out the duties of the department as provided by~~  
26 ~~law governing state purchasing.~~

27 **(G) PURCHASE SERVICES IN ACCORDANCE WITH APPLICABLE CIVIL**

1 **SERVICE RULES.**

2 **(H) ACQUIRE INTERESTS IN REAL AND PERSONAL PROPERTY, INCLUDING**  
 3 **BY CONDEMNATION.**

4 **(I)** ~~(g)~~—Dispose of obsolete equipment, surplus supplies and  
 5 material that cannot be used by the department as provided by law  
 6 governing the disposal.

7 **(J)** ~~(h)~~—Do anything necessary and proper to comply fully with  
 8 the provisions of present or future federal aid acts.

9 **(K) ENTER INTO PUBLIC-PRIVATE AGREEMENTS UNDER SECTION 7B**  
 10 **SUBJECT TO THE APPROVAL OF THE COMMISSION.**

11 **(L)** ~~(i)~~—Do anything necessary and proper to carry out the  
 12 duties imposed upon the department by the constitution and other  
 13 duties as may be imposed by law.

14 Sec. 7. (1) The commission's powers and duties shall include:

15 (a) The ~~awarding~~ **APPROVAL FOR AWARD BY THE DEPARTMENT** of all  
 16 contracts for the construction, improvement, and maintenance of the  
 17 highways and **PUBLIC** transportation facilities ~~under its~~  
 18 ~~jurisdiction~~ **OF THE DEPARTMENT**, as provided by law ~~law~~ **RESOLUTION OF**  
 19 **THE COMMISSION.**

20 (b) The establishment of transportation policies for the  
 21 guidance and direction of the director.

22 **(C) THE APPROVAL FOR AWARD BY THE DEPARTMENT OF ALL PUBLIC-**  
 23 **PRIVATE AGREEMENTS.**

24 (2) The commission may do the following:

25 (a) Delegate to any member of the commission, the director, or  
 26 any subordinate, any powers, other than the power to establish  
 27 policy, vested in the commission as it considers necessary and

1 proper, ~~and permit the director to delegate any powers delegated~~  
 2 ~~to him or her by the commission~~ **EXCEPT FOR THE POWER TO APPROVE**  
 3 **PUBLIC-PRIVATE AGREEMENTS UNDER THIS SECTION.**

4 (b) ~~Acquire,~~ **AUTHORIZE THE DEPARTMENT TO ACQUIRE**, own, and  
 5 hold **INTERESTS IN** real and personal property in the name of ~~the~~  
 6 **THIS** state or the ~~commission~~ **DEPARTMENT** and **TO** sell, lease or  
 7 otherwise dispose of, or encumber, **ANY INTERESTS IN** the same in  
 8 connection with, and in furtherance of, its duties and the purposes  
 9 of this act, **SUBJECT TO RESOLUTIONS OF THE COMMISSION.**

10 (c) Do anything necessary and proper to carry out the duties  
 11 imposed upon it by the constitution and such other duties as may be  
 12 imposed by law.

13 **(3) THE COMMISSION SHALL CONDUCT A PUBLIC HEARING AT LEAST**  
 14 **ONCE EVERY 5 YEARS TO RECEIVE PUBLIC COMMENT AND INPUT WITH REGARD**  
 15 **TO THEN EXISTING PUBLIC TRANSPORTATION FACILITIES OPERATED UNDER A**  
 16 **PUBLIC-PRIVATE AGREEMENT.**

17 Sec. 7a. (1) As used in this section:

18 (a) "Completion" means the date when the construction,  
 19 improvement, or maintenance of a bridge, highway, or other  
 20 transportation facility is accepted in accordance with the contract  
 21 documents, so that the bridge, highway, or other transportation  
 22 facility may be used for its intended purpose.

23 (b) "Construction contract" means an agreement between a  
 24 contractor and the department for the construction, improvement, or  
 25 maintenance of a bridge, highway, or other transportation facility.  
 26 **CONSTRUCTION CONTRACT DOES NOT INCLUDE A PUBLIC-PRIVATE AGREEMENT.**

27 (c) ~~"Contractor"~~ **"CONSTRUCTION CONTRACTOR"** means an

1 ~~individual, sole proprietorship, partnership, corporation, joint~~  
2 ~~venture, or other legal~~ **A PERSON OR** entity, other than ~~the~~ **THIS**  
3 state, or an agency or department of the state, who is a party to a  
4 construction contract.

5 ~~—— (d) "Project" means the specific section 9 of the highway~~  
6 ~~construction to be performed under the construction contract.~~

7 (2) A construction contract may provide for partial payments  
8 to be made periodically to a **CONSTRUCTION** contractor. The  
9 department may establish specifications regarding the retention of  
10 a portion of the total amount earned under the construction  
11 contract.

12 (3) At the request of the **CONSTRUCTION** contractor and upon the  
13 approval of the department, the portion retained pursuant to the  
14 specifications established under subsection (2) shall be placed in  
15 an escrow account pursuant to this section.

16 (4) An escrow agent may be selected by the **CONSTRUCTION**  
17 contractor. For purposes of this section, an escrow agent shall be  
18 a state or national bank, a state or federally chartered savings  
19 and loan association, or a state or federally chartered credit  
20 union whose principal place of business is located in this state.

21 (5) An escrow agreement shall be entered into between the  
22 contracting parties and the escrow agent. The escrow agreement  
23 shall contain all of the following terms:

24 (a) That the escrow agent shall promptly invest all of the  
25 escrowed funds.

26 (b) That the escrow agent shall hold the escrowed funds until  
27 receipt of notice from the department. Upon receipt of a notice of

1 release from the department, the escrow agent shall promptly remit  
2 the designated portion of escrowed funds to the **CONSTRUCTION**  
3 contractor involved in the contract. Upon receipt of a notice of  
4 overpayment or default of the contract, the escrow agent shall  
5 promptly remit the designated portion of escrowed funds to the  
6 department.

7 (c) That the escrow agent is responsible for all investments  
8 and money as a result of the deposit of the amount until released  
9 from responsibility pursuant to the escrow agreement.

10 (d) That the **CONSTRUCTION** contractor shall pay all expenses  
11 regarding the deposit, investment, and administration of the  
12 retained amount and all other charges made by the escrow agent.

13 (e) Any other provision agreed to by the contracting parties  
14 and the escrow agent necessary or proper for purposes of this  
15 section.

16 **SEC. 7B. (1) THE DEPARTMENT MAY ENTER INTO PUBLIC-PRIVATE**  
17 **AGREEMENTS AS PROVIDED IN THIS ACT. PUBLIC-PRIVATE AGREEMENTS SHALL**  
18 **INCLUDE TERMS DESIGNED TO PROTECT THE PUBLIC INTEREST AND ENSURE**  
19 **ACCOUNTABILITY OF A CONCESSIONAIRE TO THE DEPARTMENT OR A PUBLIC**  
20 **ENTITY CREATED UNDER MICHIGAN LAW FOR A PUBLIC TRANSPORTATION**  
21 **FACILITY IN THIS STATE, WHICHEVER IS APPLICABLE. A PUBLIC-PRIVATE**  
22 **AGREEMENT MAY CONTAIN TERMS AND CONDITIONS THAT THE DEPARTMENT MAY**  
23 **DETERMINE OR NEGOTIATE TO FACILITATE THE RESEARCHING, PLANNING,**  
24 **STUDYING, DESIGNING, DEVELOPING, FINANCING, ACQUIRING,**  
25 **CONSTRUCTING, CHARGING USER FEES, GOVERNING, OPERATING, OR**  
26 **MAINTAINING OF A PUBLIC TRANSPORTATION FACILITY IN THE PUBLIC**  
27 **INTEREST. A PUBLIC TRANSPORTATION FACILITY SHALL BE PUBLICLY OWNED**



1 AND SHALL BE DEDICATED TO THE PUBLIC USE AS A PUBLIC TRANSPORTATION  
2 FACILITY AS PROVIDED IN THIS ACT.

3 (2) A PUBLIC-PRIVATE AGREEMENT SHALL PROVIDE FOR THE TERMS OF  
4 THE USE AND OPERATION OF A PUBLIC TRANSPORTATION FACILITY BY A  
5 CONCESSIONAIRE FOR A PERIOD THE DEPARTMENT DETERMINES IS NECESSARY  
6 FOR THE DEVELOPMENT AND FINANCING OF A PUBLIC TRANSPORTATION  
7 FACILITY AND THE ECONOMIC FEASIBILITY OF THE PUBLIC-PRIVATE  
8 AGREEMENT. THE PUBLIC-PRIVATE AGREEMENT MAY INCLUDE A LEASE,  
9 LICENSE, RIGHT OF ENTRY, OR OTHER INSTRUMENT FOR THE PUBLIC  
10 TRANSPORTATION FACILITY AS THE DEPARTMENT DETERMINES IS IN THE BEST  
11 INTEREST OF THE PUBLIC. THE AGREEMENT MAY PROVIDE FOR AN INITIAL  
12 OPERATING TERM NOT EXCEEDING 50 YEARS FROM THE LATER OF COMPLETION  
13 OF CONSTRUCTION OR COMMENCEMENT OF COLLECTING USER FEES IF USER  
14 FEES ARE COLLECTED UNLESS A LONGER TERM IS REQUIRED FOR THE  
15 ECONOMIC FEASIBILITY OF THE PUBLIC-PRIVATE AGREEMENT AS DETERMINED  
16 BY THE DEPARTMENT AND APPROVED BY THE COMMISSION. THE AGREEMENT  
17 SHALL PROVIDE THAT THE OWNERSHIP OF A PUBLIC TRANSPORTATION  
18 FACILITY WITHIN THIS STATE SHALL BE VESTED IN THE DEPARTMENT OR A  
19 PUBLIC ENTITY CREATED UNDER MICHIGAN LAW, AND THAT TITLE TO THE  
20 PUBLIC TRANSPORTATION FACILITY SHALL NOT BE ENCUMBERED. NO  
21 PROVISION OF A PUBLIC-PRIVATE AGREEMENT SHALL ALLOW THE PUBLIC TO  
22 BE DEPRIVED OF THE USE AND BENEFIT OF A PUBLIC TRANSPORTATION  
23 FACILITY EXCEPT AS NECESSARY TO IMPLEMENT USER FEES OR ANCILLARY  
24 CHARGES AUTHORIZED BY THIS SECTION, TO REGULATE THE LEVEL OR  
25 CHARACTER OF PERMISSIBLE USES OF THE PUBLIC TRANSPORTATION  
26 FACILITY, TO ADDRESS ISSUES OF PUBLIC SAFETY OR SECURITY, OR TO  
27 MAINTAIN, REPAIR, OR IMPROVE THE PUBLIC TRANSPORTATION FACILITY. A

1 PUBLIC-PRIVATE AGREEMENT SHALL PROVIDE FOR THE TERMINATION OF THE  
2 AGREEMENT. NOTHING IN A PUBLIC-PRIVATE AGREEMENT SHALL PROHIBIT THE  
3 DEPARTMENT FROM CONSTRUCTING, OPERATING, AND MAINTAINING ANY  
4 TRANSPORTATION PROJECT THAT IS IN THE DEPARTMENT'S LONG-RANGE PLAN  
5 IN EFFECT ON THE DATE THAT PROPOSALS ARE SUBMITTED, OR PROHIBIT ANY  
6 MUNICIPALITY, COUNTY, OR OTHER LOCAL AGENCY FROM CONSTRUCTING,  
7 OPERATING, AND MAINTAINING ANY TRANSPORTATION PROJECT.

8 (3) A PUBLIC-PRIVATE AGREEMENT MAY PROVIDE FOR THE CHARGING  
9 AND COLLECTION OF USER FEES AND ANCILLARY CHARGES FOR THE USE OF A  
10 PUBLIC TRANSPORTATION FACILITY. EXCEPT AS OTHERWISE PROVIDED IN  
11 THIS SUBSECTION, ONCE USER FEES ARE INITIALLY ESTABLISHED, USER  
12 FEES AND ANCILLARY CHARGES SHALL NOT BE INCREASED BY MORE THAN THE  
13 CUMULATIVE ANNUAL INCREASES IN THE CONSUMER PRICE INDEX, AS  
14 PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS IN THE  
15 UNITED STATES DEPARTMENT OF LABOR, AND DESIGNATED IN THE PUBLIC-  
16 PRIVATE AGREEMENT WITHOUT WRITTEN APPROVAL OF THE DEPARTMENT. USER  
17 FEES AND ANCILLARY CHARGES THAT ARE INTENDED BY THE DEPARTMENT TO  
18 APPLY TO LANES MANAGED BY THE LEVEL OF USER FEES TO CONTROL OR  
19 MANAGE TRAFFIC VOLUME OR FLOW MAY BE INCREASED BY MORE THAN THE  
20 CONSUMER PRICE INDEX, AS PUBLISHED BY THE UNITED STATES BUREAU OF  
21 LABOR STATISTICS, AND SPECIFIED IN THE PUBLIC-PRIVATE AGREEMENT. IF  
22 A USER FAILS TO PAY THE USER FEE BY PRIOR ARRANGEMENT, AND SEPARATE  
23 BILLING IS REQUIRED FOR PAYMENT, A REASONABLE ADMINISTRATIVE FEE  
24 MAY BE CHARGED. A USER FEE MAY BE IMPOSED ON A HIGHWAY ONLY IF  
25 IMPOSED FOR THE USE OF HIGHWAYS CONSTRUCTED AFTER THE EFFECTIVE  
26 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, OR THE USE OF  
27 HIGHWAYS WITH EXPANDED CAPACITY BEYOND THE HIGHWAY CAPACITY IN

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1 PLACE ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
2 SECTION. USER FEES AND ANCILLARY CHARGES IMPOSED FOR THE USE OF A  
3 PUBLIC TRANSPORTATION FACILITY IN THIS STATE ARE NOT SUBJECT TO  
4 REGULATION BY ANY OTHER GOVERNMENTAL AGENCY. NOTHING IN THIS  
5 SECTION SHALL BE CONSTRUED TO ALLOW THE CONVERSION OF ANY LANES  
6 EXISTING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED  
7 THIS SECTION INTO TOLLED OR USER-FEE LANES EXCEPT THAT THE  
8 DEPARTMENT MAY DETERMINE WHICH LANE OF AN EXISTING HIGHWAY IS  
9 DESIGNATED FOR IMPOSITION OF USER FEES IF CAPACITY OF THAT HIGHWAY  
10 IS EXPANDED.

11 (4) COMPENSATION PAID TO THE DEPARTMENT IN CONNECTION WITH A  
12 PUBLIC-PRIVATE AGREEMENT INCLUDING THE DEPARTMENT'S PORTION OF USER  
13 FEES AND ANCILLARY CHARGES IMPOSED FOR USE OF A PUBLIC  
14 TRANSPORTATION FACILITY SHALL BE USED FOR TRANSPORTATION PURPOSES.

15 (5) IN ACCORDANCE WITH THE TERMS OF A PUBLIC-PRIVATE  
16 AGREEMENT, THE DEPARTMENT OR AN INSTRUMENTALITY OF GOVERNMENT SHALL  
17 OVERSEE THE ACTIVITIES OF A CONCESSIONAIRE CARRYING OUT THE TERMS  
18 OF A PUBLIC-PRIVATE AGREEMENT. A PUBLIC-PRIVATE AGREEMENT MAY  
19 PROVIDE FOR THE USE OF ARBITRATION, MEDIATION, OR OTHER ALTERNATIVE  
20 DISPUTE RESOLUTION MECHANISM FOR THE RESOLUTION OF DISPUTES BETWEEN  
21 THE DEPARTMENT AND A CONCESSIONAIRE.

22 (6) [THIS STATE, INCLUDING, BUT NOT LIMITED TO,] THE DEPARTMENT [,  
23 ] DOES  
24 NOT HAVE ANY LIABILITY FOR THE ACTS OR OMISSIONS OF THE  
25 CONCESSIONAIRE OR OTHER PARTY TO A PUBLIC-PRIVATE AGREEMENT.

26 (7) A PUBLIC-PRIVATE AGREEMENT MAY PERMIT THE CONDUCT OF  
27 COMMERCIAL ACTIVITIES AT A PUBLIC TRANSPORTATION FACILITY IF THE  
ACTIVITIES ARE RELATED TO THE TRANSPORTATION PURPOSES OF THE

1 FACILITY AND TO THE EXTENT NOT RESTRICTED BY APPLICABLE LAW.

2 (8) EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, A PUBLIC-PRIVATE  
3 AGREEMENT FOR A PUBLIC TRANSPORTATION FACILITY SHALL IMPOSE ON THE  
4 CONCESSIONAIRE THE SAME REQUIREMENTS OF LAW THAT ARE IMPOSED IN  
5 CONTRACTS OF THE DEPARTMENT WHEN IT CONTRACTS DIRECTLY FOR THE  
6 CONSTRUCTION OR OPERATION OF A PUBLIC TRANSPORTATION FACILITY. A  
7 PUBLIC-PRIVATE AGREEMENT SHALL ESTABLISH THE AMOUNTS FOR WHICH THE  
8 CONCESSIONAIRE SHALL POST PAYMENT AND PERFORMANCE BONDS OR OTHER  
9 SECURITY AS PROVIDED IN THIS SUBSECTION. A PUBLIC-PRIVATE AGREEMENT  
10 MAY AUTHORIZE A CONCESSIONAIRE FOR A PUBLIC TRANSPORTATION FACILITY  
11 TO PROVIDE A LETTER OF CREDIT IN LIEU OF A PAYMENT OR PERFORMANCE  
12 BOND. IF THE DEPARTMENT DETERMINES THAT BONDS OR LETTERS OF CREDIT  
13 ARE NOT REASONABLY AVAILABLE IN SUFFICIENT AMOUNTS, THE DEPARTMENT  
14 MAY ACCEPT ANOTHER COMMERCIALY REASONABLE FORM OF SECURITY,  
15 INCLUDING PARENT CORPORATION GUARANTEES, TO SUPPLEMENT AVAILABLE  
16 PAYMENT BONDS, PERFORMANCE BONDS, OR LETTERS OF CREDIT. THE  
17 DEPARTMENT SHALL REQUIRE THE POSTING OF SUFFICIENT SECURITY TO  
18 FULFILL THE PURPOSES OF A PAYMENT AND PERFORMANCE BOND. IN LIEU OF  
19 POSTING BY THE CONCESSIONAIRE, OR IN SUPPLEMENTATION OF THAT  
20 POSTING, THE DEPARTMENT MAY ACCEPT BONDS, LETTERS OF CREDIT, AND  
21 OTHER SECURITY FROM ENTITIES OTHER THAN THE CONCESSIONAIRE SO LONG  
22 AS THE PURPOSES OF A PAYMENT AND PERFORMANCE BOND ARE FULFILLED.

23 (9) THE DEPARTMENT MAY MAKE AND ENTER INTO ALL CONTRACTS AND  
24 AGREEMENTS AND TAKE ANY OTHER ACTION NECESSARY OR INCIDENTAL TO THE  
25 PERFORMANCE OF ITS DUTIES AND THE EXECUTION OF ITS POWERS UNDER  
26 THIS ACT AND A PUBLIC-PRIVATE AGREEMENT.

27 (10) FOR PUBLIC-PRIVATE AGREEMENTS THAT INCLUDE AN OPERATIONS

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1 PHASE, THE PUBLIC-PRIVATE AGREEMENT SHALL REQUIRE THAT THE PUBLIC  
2 TRANSPORTATION FACILITY REVERT FROM THE CONCESSIONAIRE TO THE  
3 DEPARTMENT AT THE END OF THE TERM OF THE PUBLIC-PRIVATE AGREEMENT  
4 IN A CONDITION SPECIFIED BY THE DEPARTMENT.

5 (11) THE PUBLIC-PRIVATE AGREEMENT SHALL INCLUDE PROVISIONS  
6 THAT ADDRESS THE DEPARTMENT'S RIGHTS TO SHARE IN REFINANCING GAINS  
7 RECEIVED BY THE CONCESSIONAIRE UNDER THE PUBLIC-PRIVATE AGREEMENT.

8 (12) THE PUBLIC-PRIVATE AGREEMENT SHALL INCLUDE PROVISIONS  
9 THAT SPECIFY THE RESTRICTIONS IMPOSED ON THE ABILITY OF THE  
10 CONCESSIONAIRE TO SELL OR TRANSFER ITS INTEREST IN THE PUBLIC-  
11 PRIVATE AGREEMENT WITHOUT THE CONSENT OF THE DEPARTMENT.

12 (13) A PUBLIC-PRIVATE AGREEMENT SHALL NOT DELEGATE THE POWER  
13 TO CONDEMN PROPERTY TO THE CONCESSIONAIRE. ALL RIGHT OF WAY  
14 ACQUIRED THROUGH CONDEMNATION THAT IS USED FOR A PUBLIC  
15 TRANSPORTATION FACILITY SHALL BE AND REMAIN PUBLICLY OWNED DURING  
16 THE TERM OF A PUBLIC-PRIVATE AGREEMENT.

17 (14) FOR ANY INTERNATIONAL BRIDGE CROSSING THAT DOES NOT EXIST  
18 AS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
19 SECTION, A PUBLIC-PRIVATE AGREEMENT [FOR ANY SUCH INTERNATIONAL BRIDGE  
20 CROSSING] SHALL INCLUDE RISK ALLOCATION PROVISIONS SPECIFYING THE RISK ASSUMED BY THE CONCESSIONAIRE [AND EACH  
21 INSTRUMENTALITY OF GOVERNMENT THAT IS PARTY TO THE PUBLIC-PRIVATE  
22 AGREEMENT] RELATED TO THE PUBLIC TRANSPORTATION FACILITY, INCLUDING THE RISK  
23 RELATING TO [CONSTRUCTION] COST OVERRUNS AND, AS APPLICABLE, [TOLL]  
24 REVENUE SHORTFALLS. [BEFORE APPROVING AND ENTERING A PUBLIC-PRIVATE  
25 AGREEMENT FOR ANY INTERNATIONAL BRIDGE THAT DOES NOT EXIST AS OF THE  
EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE  
DEPARTMENT SHALL ENSURE THESE RISK ALLOCATION PROVISIONS PROVIDE FOR THE  
MOST ECONOMICALLY BENEFICIAL WAY FOR THIS STATE TO PERFORM THE PROJECT,  
WHILE MINIMIZING LIABILITY FOR CONSTRUCTION COST OVERRUNS AND TOLL  
REVENUE SHORTFALLS FOR WHICH THIS STATE COULD BE HELD LIABLE, AND THE  
DEPARTMENT SHALL SUBMIT A REPORT TO THE GOVERNOR EXPLAINING HOW THIS  
MANDATE WAS FULFILLED.]

23 SEC. 7C. UPON APPROVAL BY THE COMMISSION OF A RESOLUTION, THE  
24 DEPARTMENT MAY CREATE PUBLIC TRANSPORTATION AUTHORITIES AS SEPARATE  
25 LEGAL ENTITIES WITHIN THE DEPARTMENT THAT MAY EXERCISE THE POWERS

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26 OF THE DEPARTMENT IN REGARD TO PUBLIC-PRIVATE AGREEMENTS UNDER THIS  
27 ACT, TO THE EXTENT AUTHORIZED BY AN AGREEMENT BETWEEN THE

1 DEPARTMENT AND THE PUBLIC TRANSPORTATION AUTHORITY. A PUBLIC  
2 TRANSPORTATION AUTHORITY IS AN INSTRUMENTALITY OF GOVERNMENT THAT  
3 MAY SUE AND BE SUED AND ENTER INTO CONTRACTS, INCLUDING PUBLIC-  
4 PRIVATE AGREEMENTS, TO THE EXTENT AUTHORIZED BY AN AGREEMENT WITH  
5 THE DEPARTMENT. THE DEPARTMENT IS NOT LIABLE FOR THE ACTS OR  
6 OMISSIONS OF A PUBLIC TRANSPORTATION AUTHORITY, EXCEPT TO THE  
7 EXTENT EXPRESSLY AUTHORIZED IN AN AGREEMENT BETWEEN A PUBLIC  
8 TRANSPORTATION AUTHORITY AND THE DEPARTMENT. EMPLOYEES OF A PUBLIC  
9 TRANSPORTATION AUTHORITY ARE EMPLOYEES OF THIS STATE, AND THE  
10 AUTHORITY SHALL COMPLY WITH THE RULES AND REGULATIONS OF THE CIVIL  
11 SERVICE COMMISSION. A PUBLIC TRANSPORTATION AUTHORITY IS AN AGENCY  
12 OF THE STATE ENTITLED TO GOVERNMENTAL IMMUNITY UNDER 1964 PA 170,  
13 MCL 691.1401 TO 691.1419. THE DEPARTMENT AND A PUBLIC  
14 TRANSPORTATION AUTHORITY SHALL COMPLY WITH ALL APPLICABLE STATE AND  
15 FEDERAL LAWS AND REGULATIONS, INCLUDING, BUT NOT LIMITED TO,  
16 APPLICABLE ENVIRONMENTAL LAWS AND REGULATIONS.

17 SEC. 7D. (1) THE DEPARTMENT MAY SOLICIT PROPOSALS OR RECEIVE  
18 UNSOLICITED PROPOSALS FOR A PUBLIC-PRIVATE AGREEMENT AND MAY CHARGE  
19 AND USE FEES TO OFFSET THE ADMINISTRATIVE COSTS OF RECEIVING AND  
20 EVALUATING PROPOSALS. BEFORE RECEIVING A PROPOSAL, THE DEPARTMENT  
21 MAY AGREE TO REIMBURSE A PRIVATE ENTITY FOR DESIGNATED COSTS  
22 INCURRED IN THE PREPARATION AND PRESENTATION OF A PROPOSAL IN  
23 RETURN FOR THE RIGHT TO USE ANY WORK PRODUCT CONTAINED IN THE  
24 PROPOSAL, INCLUDING, BUT NOT LIMITED TO, THE TECHNOLOGIES, METHODS,  
25 PROCESSES, AND INFORMATION CONTAINED IN THE MATERIAL SUBMITTED IN  
26 CONNECTION WITH THE PROPOSAL. THE DEPARTMENT HAS THE SOLE  
27 DISCRETION WHETHER, AND TO WHAT EXTENT, TO CONSIDER AN UNSOLICITED

1 PROPOSAL. BEFORE ENTERING INTO ANY PUBLIC-PRIVATE AGREEMENT FOR A  
2 PUBLIC TRANSPORTATION FACILITY PROPOSED BY AN UNSOLICITED PROPOSAL,  
3 THE DEPARTMENT MAY AMEND THE PROPOSAL AND SHALL SOLICIT COMPETING  
4 PROPOSALS AND ENTER INTO ANY PUBLIC-PRIVATE AGREEMENT USING THE  
5 CRITERIA IN SUBSECTION (5).

6 (2) IN SOLICITING OR SELECTING A PRIVATE ENTITY WITH WHICH TO  
7 ENTER INTO A PUBLIC-PRIVATE AGREEMENT, THE DEPARTMENT SHALL UTILIZE  
8 1 OR MORE OF THE FOLLOWING PROCUREMENT APPROACHES:

9 (A) SEALED BIDDING.

10 (B) SELECTION OF PROPOSALS, WITH OR WITHOUT NEGOTIATIONS,  
11 BASED ON QUALIFICATIONS, DEVELOPMENT PROPOSALS, TECHNICAL  
12 PROPOSALS, FINANCIAL PROPOSALS, BEST VALUE, OR ANY COMBINATION OF  
13 THEM.

14 (C) ANY COMPETITIVE SELECTION PROCESS THAT THE DEPARTMENT  
15 DETERMINES TO BE APPROPRIATE OR REASONABLE.

16 (3) THE DEPARTMENT SHALL SELECT A PRIVATE ENTITY OR ENTITIES  
17 FOR PARTICIPATION IN A PUBLIC-PRIVATE AGREEMENT USING A COMPETITIVE  
18 SELECTION PROCESS TO THE EXTENT PRACTICABLE.

19 (4) BEFORE SELECTING A PROJECT, THE DEPARTMENT SHALL CONSIDER  
20 ALL OF THE FOLLOWING FACTORS:

21 (A) THE ABILITY OF THE PUBLIC TRANSPORTATION FACILITY TO  
22 IMPROVE SAFETY OR OPERATIONS, REDUCE CONGESTION, REDUCE TRAVEL  
23 TIMES, INCREASE CAPACITY, ENHANCE ENVIRONMENTAL QUALITY, PROMOTE  
24 ECONOMIC DEVELOPMENT, OR ANY COMBINATION OF THESE OR SIMILAR  
25 FACTORS.

26 (B) BENEFITS TO THE PUBLIC.

27 (C) ABILITY TO INCREASE FEDERAL OR OTHER NONSTATE REVENUE TO



1 THIS STATE.

2 (5) THE DEPARTMENT SHALL CONSIDER ALL OF THE FOLLOWING FACTORS  
3 IN EVALUATING AND SELECTING A BID OR PROPOSAL TO ENTER INTO A  
4 PUBLIC-PRIVATE AGREEMENT:

5 (A) THE PROPOSED COST OF AND FINANCIAL PLAN FOR THE PUBLIC  
6 TRANSPORTATION FACILITY.

7 (B) THE GENERAL REPUTATION, QUALIFICATIONS, INDUSTRY  
8 EXPERIENCE, SAFETY RECORD, LABOR RECORD, AND FINANCIAL CAPACITY OF  
9 THE PRIVATE ENTITY.

10 (C) THE PROPOSED DESIGN, OPERATION, AND FEASIBILITY OF THE  
11 PUBLIC TRANSPORTATION FACILITY.

12 (D) TO THE EXTENT PERMITTED BY FEDERAL LAW, THE PROPOSED PLAN  
13 OF THE PRIVATE ENTITY TO HIRE LEGAL UNITED STATES RESIDENTS AND  
14 CITIZENS FOR WORK RELATING TO THE PUBLIC TRANSPORTATION FACILITY IN  
15 THIS STATE.

16 (E) ANY OTHER CRITERIA, INCLUDING PREQUALIFICATION UNDER RULES  
17 PROMULGATED BY THE DEPARTMENT OR THROUGH COMPLIANCE WITH 1933 PA  
18 170, MCL 123.501 TO 123.508, THAT THE DEPARTMENT CONSIDERS  
19 NECESSARY OR APPROPRIATE IN THE BEST INTERESTS OF THIS STATE OR THE  
20 PEOPLE OF THIS STATE.

21 (6) THE DEPARTMENT MAY SELECT MULTIPLE PRIVATE ENTITIES WITH  
22 WHICH TO ENTER INTO PUBLIC-PRIVATE AGREEMENTS FOR A PUBLIC  
23 TRANSPORTATION FACILITY IF IT IS DETERMINED BY THE DEPARTMENT TO BE  
24 IN THE PUBLIC INTEREST TO DO SO.

25 (7) THE DEPARTMENT MAY PROMISE TO KEEP TRADE SECRETS OR  
26 PROPRIETARY COMMERCIAL OR FINANCIAL INFORMATION PROVIDED BY A  
27 PRIVATE ENTITY CONFIDENTIAL ONLY FOR PURPOSES OF SEEKING OR

1 ENTERING INTO A PUBLIC PRIVATE AGREEMENT. UPON RECEIPT OF A  
2 SUFFICIENTLY DETAILED REQUEST BY A PRIVATE ENTITY, THE DEPARTMENT  
3 SHALL PROVIDE A DESCRIPTION OF THE INFORMATION TO WHICH ITS PROMISE  
4 OF CONFIDENTIALITY WILL EXTEND. SUBMISSION OF A SOLICITED OR  
5 UNSOLICITED PROPOSAL CONSTITUTES CONSENT FOR THE DEPARTMENT TO USE  
6 THE INFORMATION AND IDEAS PROVIDED BY A PRIVATE ENTITY FOR A  
7 TRANSPORTATION FACILITY OR FOR PURPOSES OF SEEKING OR ENTERING INTO  
8 A PUBLIC-PRIVATE AGREEMENT, INCLUDING TO SOLICIT COMPETING  
9 PROPOSALS UNLESS THE DEPARTMENT AGREES OTHERWISE IN A WRITING  
10 EXECUTED BY THE DEPARTMENT BEFORE THE SUBMISSION.

11 (8) NO ACTION SHALL LIE AGAINST THE DEPARTMENT OR ANOTHER  
12 PERSON ACTING IN ACCORDANCE WITH A PUBLIC-PRIVATE AGREEMENT FOR THE  
13 USE OF IDEAS AND INFORMATION PROVIDED BY A PRIVATE ENTITY FOR  
14 PURPOSES OF SEEKING OR ENTERING INTO A PUBLIC-PRIVATE AGREEMENT.

15 (9) THE DEPARTMENT SHALL PERFORM A COST-BENEFIT ANALYSIS  
16 INCLUDING A RISK TRANSFER OR ALLOCATION ASSESSMENT TO DETERMINE  
17 WHETHER A PROPOSED PUBLIC-PRIVATE AGREEMENT IS THE MOST  
18 ECONOMICALLY BENEFICIAL WAY FOR THE STATE TO PERFORM THE PROPOSED  
19 PROJECT. THE DEPARTMENT SHALL CHOOSE AN APPROPRIATE METHODOLOGY TO  
20 UTILIZE IN THE COST-BENEFIT ANALYSIS AND SHALL STATE THE  
21 ASSUMPTIONS USED IN THE COST-BENEFIT ANALYSIS. THE COST-BENEFIT  
22 ANALYSIS SHALL INCLUDE ALL NECESSARY MONITORING AND OVERSIGHT OF  
23 ANY PRIVATE ENTITY BY A PUBLIC ENTITY. THE DEPARTMENT SHALL PUBLISH  
24 THE RESULTS OF THE ANALYSIS ON ITS WEBSITE. THE COMMISSION SHALL  
25 NOT APPROVE A PUBLIC-PRIVATE AGREEMENT UNDER SECTION 7(1)(C) UNLESS  
26 IT DETERMINES THAT THE PUBLIC-PRIVATE AGREEMENT IS THE MOST  
27 ECONOMICALLY BENEFICIAL WAY FOR THE STATE TO PERFORM THE PROJECT,

1 INCLUDING CONSIDERATION OF WHETHER THE AGREEMENT REDUCES RISK TO  
2 THE STATE, INCLUDING FINANCIAL RISKS, COMPARED TO OTHER OPTIONS AND  
3 FINANCING ARRANGEMENTS.

4 SEC. 7E. (1) WHETHER USED BY THE DEPARTMENT, ANOTHER  
5 INSTRUMENTALITY OF GOVERNMENT, OR A PRIVATE ENTITY UNDER A PUBLIC-  
6 PRIVATE AGREEMENT, A PUBLIC TRANSPORTATION FACILITY, INCLUDING, BUT  
7 NOT LIMITED TO, REAL PROPERTY AND TANGIBLE PERSONAL PROPERTY USED  
8 EXCLUSIVELY WITH A PUBLIC TRANSPORTATION FACILITY, THAT IS OWNED BY  
9 THE DEPARTMENT OR ANOTHER INSTRUMENTALITY OF GOVERNMENT IS EXEMPT  
10 FROM ALL AD VALOREM PROPERTY TAXES AND ALL ASSESSMENTS LEVIED  
11 AGAINST PROPERTY BY THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS  
12 STATE TO THE SAME EXTENT THAT THE PROPERTY OWNED BY THE DEPARTMENT  
13 OR INSTRUMENTALITY OF GOVERNMENT WOULD OTHERWISE BE EXEMPT FROM AD  
14 VALOREM PROPERTY TAXES AND ASSESSMENTS.

15 (2) NO PERSON SHALL BY REASON OF THE USE OF MOTOR FUEL WITHIN  
16 THE LIMITS OF A PUBLIC TRANSPORTATION FACILITY AUTHORIZED BY A  
17 PUBLIC-PRIVATE AGREEMENT BE EXEMPT FROM OR ELIGIBLE FOR A REFUND OF  
18 A MOTOR FUEL TAX IMPOSED BY THIS STATE OR A POLITICAL SUBDIVISION  
19 OF THIS STATE.

20 (3) SUBJECT TO APPROVAL FROM THE COMMISSION AND COMPLIANCE  
21 WITH APPLICABLE FEDERAL LAWS, THE DEPARTMENT HAS EXCLUSIVE  
22 AUTHORITY TO DETERMINE WHERE AND WHETHER TO ESTABLISH A PUBLIC  
23 TRANSPORTATION FACILITY AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT  
24 AND THE SCOPE AND NATURE OF THE FACILITY.

25 (4) REVENUE ATTRIBUTABLE TO A PUBLIC TRANSPORTATION FACILITY  
26 AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT THAT IS PAYABLE TO THE  
27 DEPARTMENT SHALL BE DEPOSITED IN THE STATE TRUNK LINE FUND,

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1 COMPREHENSIVE TRANSPORTATION FUND, OR AERONAUTICS FUND, AS  
2 INDICATED BY THE NATURE OF THE PUBLIC TRANSPORTATION FACILITY AND  
3 PROVIDED IN THE PUBLIC-PRIVATE AGREEMENT.

4 SEC. 7F. (1) THE DEPARTMENT MAY ISSUE AND SELL BONDS OR NOTES  
5 FOR THE PURPOSE OF PROVIDING FUNDS TO CARRY OUT THE PROVISIONS OF  
6 THIS ACT WITH RESPECT TO THE DEVELOPMENT, ACQUISITION,  
7 CONSTRUCTION, FINANCING, MAINTENANCE, OR OPERATION OF A PUBLIC  
8 TRANSPORTATION FACILITY PROVIDED FOR BY A PUBLIC-PRIVATE AGREEMENT  
9 OR THE REFUNDING OF ANY BONDS OR NOTES, TOGETHER WITH ANY COSTS  
10 ASSOCIATED WITH THE TRANSACTION.

11 (2) ANY BOND OR NOTE ISSUED UNDER SUBSECTION (1) DOES NOT  
12 CONSTITUTE A PLEDGE OF THE FAITH AND CREDIT OR INDEBTEDNESS OF THIS  
13 STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE WITHIN THE MEANING  
14 OR APPLICATION OF ANY CONSTITUTIONAL PROVISION OR LIMITATION. A  
15 BOND OR NOTE ISSUED UNDER SUBSECTION (1) IS PAYABLE SOLELY AS TO  
16 BOTH PRINCIPAL AND INTEREST FROM REVENUES GENERATED FROM USE OF THE  
17 PUBLIC TRANSPORTATION FACILITY AUTHORIZED BY THE PUBLIC-PRIVATE  
18 AGREEMENT, THE PROCEEDS OF BONDS OR NOTES SOLD TO FINANCE THE  
19 REFUNDING OF THE OUTSTANDING BONDS OR NOTES, IF ANY, OR INVESTMENT  
20 EARNINGS ON THE PROCEEDS OF THE BONDS OR NOTES.

21 (3) THE DEPARTMENT MAY RETAIN SERVICES AND ENTER INTO ANY  
22 CONTRACTS THAT ARE NECESSARY OR USEFUL FOR THE ISSUANCE AND SALE OF  
23 BONDS, NOTES, OR OTHER FINANCIAL INSTRUMENTS UNDER THIS SECTION.

24 (4) FOR THE PURPOSE OF FINANCING A PUBLIC TRANSPORTATION  
25 FACILITY, [THIS STATE,] THE DEPARTMENT, [THE CONCESSIONAIRE, OR, TO THE  
26 EXTENT PERMITTED  
27 BY LAW, AN INSTRUMENTALITY OF GOVERNMENT] MAY APPLY FOR, OBTAIN, ISSUE,  
AND USE PRIVATE  
ACTIVITY BONDS OR OTHER FINANCIAL INSTRUMENTS AVAILABLE UNDER ANY

1 STATE OR FEDERAL LAW OR PROGRAM. AN INSTRUMENTALITY OF GOVERNMENT  
2 MAY ACT AS A CONDUIT ISSUER AND TRANSFER THE PROCEEDS OF PRIVATE  
3 ACTIVITY BONDS OR SIMILAR FINANCIAL INSTRUMENTS TO A CONCESSIONAIRE  
4 IF AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT. THE BONDS OR  
5 INSTRUMENTS SHALL NOT PLEDGE THE FULL FAITH AND CREDIT OF THIS  
6 STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE AND SHALL NOT BE A  
7 DEBT OF THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE.

8 (5) THIS SECTION DOES NOT LIMIT AN INSTRUMENTALITY OF  
9 GOVERNMENT'S AUTHORITY TO ISSUE BONDS OR OTHER FINANCIAL  
10 INSTRUMENTS FOR TRANSPORTATION PROJECTS UNDER OTHER LAWS. A PUBLIC  
11 TRANSPORTATION FACILITY MAY BE FINANCED WITH FUNDS PROVIDED OR  
12 RAISED UNDER OTHER LAWS, INCLUDING, BUT NOT LIMITED TO, LAWS  
13 AUTHORIZING THE SALE OF BONDS.

14 SEC. 7G. (1) THE DEPARTMENT MAY APPLY FOR AND ACCEPT FROM THE  
15 UNITED STATES OR ANY OF ITS AGENCIES, INCLUDING, BUT NOT LIMITED  
16 TO, A FEDERAL INFRASTRUCTURE BANK, FUNDS THAT ARE AVAILABLE TO THE  
17 DEPARTMENT FOR CARRYING OUT A PUBLIC-PRIVATE AGREEMENT, WHETHER THE  
18 FUNDS ARE MADE AVAILABLE BY GRANT, LOAN, LINE OF CREDIT, LOAN  
19 GUARANTEE, OR OTHER FINANCIAL ASSISTANCE.

20 (2) THE DEPARTMENT MAY ASSENT TO ANY FEDERAL REQUIREMENTS,  
21 CONDITIONS, OR TERMS OF ANY FEDERAL FUNDING ACCEPTED UNDER THIS  
22 SECTION OTHER THAN A PLEDGE OF THE FAITH AND CREDIT OF THIS STATE  
23 OR ANY POLITICAL SUBDIVISION OF THIS STATE OR ANOTHER REQUIREMENT,  
24 CONDITION, OR TERM PROHIBITED BY THE STATE CONSTITUTION OF 1963.

25 (3) THE DEPARTMENT MAY ENTER INTO AGREEMENTS OR OTHER  
26 ARRANGEMENTS WITH THE UNITED STATES OR ANY OF ITS AGENCIES AS MAY  
27 BE NECESSARY FOR IMPLEMENTING A PUBLIC-PRIVATE AGREEMENT.

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1 (4) THE DEPARTMENT MAY ACCEPT FROM ANY SOURCE, AND USE FOR  
2 SUPPORTING A PUBLIC TRANSPORTATION FACILITY AUTHORIZED BY A PUBLIC-  
3 PRIVATE AGREEMENT, ANY GRANT, DONATION, GIFT, OR OTHER FORM OF  
4 CONVEYANCE OF LAND, MONEY, OTHER REAL OR PERSONAL PROPERTY, OR  
5 OTHER ITEM OF VALUE. A PUBLIC TRANSPORTATION FACILITY AUTHORIZED BY  
6 A PUBLIC-PRIVATE AGREEMENT MAY BE FINANCED IN WHOLE OR IN PART BY  
7 CONTRIBUTION OF ANY FUNDS OR PROPERTY MADE BY ANY PERSON OR ENTITY.

8 (5) THE DEPARTMENT MAY COMBINE FEDERAL, STATE, LOCAL, AND  
9 PRIVATE FUNDS TO FINANCE A PUBLIC TRANSPORTATION FACILITY  
10 AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT.

11 (6) FOR ANY INTERNATIONAL BRIDGE CROSSING THAT DOES NOT EXIST  
12 AS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
13 SECTION, A PUBLIC-PRIVATE AGREEMENT SHALL NOT REQUIRE A PLEDGE OF  
14 THE FULL FAITH AND CREDIT OF THIS STATE OR OF ANY POLITICAL  
15 SUBDIVISION OF THIS STATE [WITHIN THE MEANING OR APPLICATION OF ANY  
16 CONSTITUTIONAL PROVISION OR LIMITATION].

17 (7) FOR ANY INTERNATIONAL BRIDGE CROSSING THAT DOES NOT EXIST  
18 AS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
19 SECTION, PRIOR TO RELEASING A REQUEST FOR PROPOSALS FOR A PUBLIC-  
20 PRIVATE AGREEMENT, THE DEPARTMENT SHALL ONLY ACQUIRE PROPERTY  
21 NEEDED FOR THE INTERNATIONAL BRIDGE CROSSING IN THIS STATE THROUGH  
22 VOLUNTARY ACQUISITIONS FROM WILLING SELLERS EXCEPT THAT THE  
23 DEPARTMENT MAY EXERCISE ITS POWER OF EMINENT DOMAIN TO ACQUIRE  
24 PROPERTY IF IT GIVES NOTICE TO THE LEGISLATURE AT LEAST 30 DAYS  
25 BEFORE FILING CONDEMNATION PROCEEDINGS.

26 SEC. 7H. (1) ALL LAW ENFORCEMENT OFFICERS OF THIS STATE AND  
27 LOCAL UNITS OF GOVERNMENT IN WHICH ALL OR PART OF A PUBLIC  
TRANSPORTATION FACILITY AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT IS

1 LOCATED SHALL HAVE THE SAME POWERS AND JURISDICTION WITHIN THE  
2 LIMITS OF THE PUBLIC TRANSPORTATION FACILITY AS THEY HAVE IN THEIR  
3 RESPECTIVE AREAS OF JURISDICTION TO ENFORCE TRAFFIC AND MOTOR  
4 VEHICLE LAWS. AUTHORIZED EMERGENCY VEHICLES AND OCCUPANTS OF  
5 AUTHORIZED EMERGENCY VEHICLES SHALL BE AFFORDED ACCESS TO A PUBLIC  
6 TRANSPORTATION FACILITY WHILE IN THE PERFORMANCE OF AN OFFICIAL  
7 DUTY WITHOUT THE PAYMENT OF A USER FEE OR OTHER CHARGE. AS USED IN  
8 THIS SUBSECTION, "AUTHORIZED EMERGENCY VEHICLE" MEANS THAT TERM AS  
9 DEFINED IN SECTION 2 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL  
10 257.2.

11 (2) PUNISHMENT FOR VIOLATIONS OF TRAFFIC AND MOTOR VEHICLE  
12 LAWS WITHIN THE LIMITS OF A PUBLIC TRANSPORTATION FACILITY  
13 AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT SHALL BE AS GENERALLY  
14 PRESCRIBED BY LAW.

15 (3) THE PUBLIC-PRIVATE AGREEMENT SHALL INCLUDE PROVISIONS  
16 RELATING TO THE PERMITTED RETENTION AND USE BY THE CONCESSIONAIRE  
17 OF COLLECTED DATA AND CUSTOMER INFORMATION AND SHALL PROHIBIT THE  
18 SALE OR USE OF SUCH DATA AND INFORMATION FOR COMMERCIAL PURPOSES  
19 UNRELATED TO THE USE OF THE PUBLIC TRANSPORTATION FACILITY.  
20 MEASURES AND DEVICES TO RECORD USERS OF PUBLIC TRANSPORTATION  
21 FACILITIES MAY BE UTILIZED TO FACILITATE THE COLLECTION OF USER  
22 FEES. A RECORDING OF THE USE OF A PUBLIC TRANSPORTATION FACILITY  
23 SHALL NOT BE USED OR DISCLOSED EXCEPT UNDER 1 OR MORE OF THE  
24 FOLLOWING CIRCUMSTANCES:

25 (A) IN ENFORCEMENT AND COLLECTION PROCEEDINGS UNDER THIS ACT  
26 TO ESTABLISH THE USE AND FAILURE TO PAY THE USER FEE IMPOSED FOR  
27 USE OF THAT PUBLIC TRANSPORTATION FACILITY.

1 (B) USE BY A POLICE OFFICER WHILE LAWFULLY ENFORCING HIS OR  
2 HER DUTIES AS A POLICE OFFICER.

3 (C) USE TO CREATE STATISTICAL REPORTS ON USE OF A PUBLIC  
4 TRANSPORTATION FACILITY THAT DO NOT DISCLOSE THE IDENTITY OF  
5 SPECIFIC USERS OF THE FACILITY.

6 (4) A PERSON WHO FAILS TO PAY A USER FEE IMPOSED FOR USE OF A  
7 PUBLIC TRANSPORTATION FACILITY IS RESPONSIBLE FOR A CIVIL  
8 INFRACTION AND SHALL PAY \$50.00 AS A CIVIL FINE. IN ADDITION, THE  
9 PERSON SHALL PAY THE OPERATOR OF THE PUBLIC TRANSPORTATION FACILITY  
10 2 TIMES THE AMOUNT OF THE USER FEE. IF THAT SUM REMAINS UNPAID TO  
11 THE OPERATOR OF THE PUBLIC TRANSPORTATION FACILITY FOR 180 DAYS  
12 AFTER THE PERSON'S USE OF THE PUBLIC TRANSPORTATION FACILITY, THE  
13 DEPARTMENT, AN AUTHORITY, AN INSTRUMENTALITY OF GOVERNMENT, OR A  
14 PRIVATE ENTITY AUTHORIZED TO DO SO BY THE DEPARTMENT, MAY BRING A  
15 CIVIL ACTION AGAINST THE PERSON TO COLLECT THE UNPAID CHARGES IN A  
16 COURT HAVING JURISDICTION. IF THE CIVIL ACTION RESULTS IN A  
17 JUDGMENT FOR UNPAID CHARGES, THE DEFENDANT SHALL ALSO BE REQUIRED  
18 TO REIMBURSE THE PLAINTIFF FOR ALL FILING FEES INCURRED BY THE  
19 PLAINTIFF PLUS \$500.00 IN COMPENSATION FOR THE COSTS OF BRINGING  
20 THE CIVIL ACTION.

21 (5) DURING THE PERIOD THAT A PERSON OWES AND HAS FAILED TO PAY  
22 CHARGES, FEES, AND COSTS UNDER SUBSECTION (3) OR (4), THE PERSON  
23 AND A MOTOR VEHICLE USED BY THE PERSON MAY BE BARRED FROM USING THE  
24 PUBLIC TRANSPORTATION FACILITY.

25 (6) EXCEPT AS PROVIDED IN SECTION 675B OF THE MICHIGAN VEHICLE  
26 CODE, 1949 PA 300, MCL 257.675B, INVOLVING LEASED VEHICLES, PROOF  
27 THAT A PARTICULAR VEHICLE USED A PUBLIC TRANSPORTATION FACILITY



1 WITHOUT PAYMENT OF THE APPLICABLE USER FEE, TOGETHER WITH PROOF  
2 FROM THE DEPARTMENT OF STATE OF THE NAME OF THE VEHICLE'S  
3 REGISTERED OWNER, CREATES A PRESUMPTION THAT THE VEHICLE'S  
4 REGISTERED OWNER WAS THE PERSON WHO USED THE PUBLIC TRANSPORTATION  
5 FACILITY, WHO FAILED TO PAY THE USER FEE, AND WHO IS PRIMA FACIE  
6 RESPONSIBLE FOR THE UNPAID CHARGES. IF THE CONDITIONS OF SECTION  
7 675B OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.675B, ARE  
8 SATISFIED, THE LESSEE OR RENTER OF A MOTOR VEHICLE AND NOT THE  
9 LEASED VEHICLE OWNER IS THE PERSON LIABLE UNDER THIS SECTION, FOR  
10 WHICH PURPOSES THE ENTITY THAT GIVES NOTICE OF UNPAID CHARGES TO  
11 THE VEHICLE'S REGISTERED OWNER SHALL BE GIVEN THE NOTICE THAT WOULD  
12 OTHERWISE BE GIVEN TO THE CLERK OF THE COURT OR PARKING VIOLATIONS  
13 BUREAU UNDER SECTION 675B OF THE MICHIGAN VEHICLE CODE, 1949 PA  
14 300, MCL 257.675B.

15 (7) THE OWNER OF A VEHICLE ALLEGED TO HAVE USED A PUBLIC  
16 TRANSPORTATION FACILITY WITHOUT PAYING AN APPLICABLE USER FEE MAY  
17 ASSERT AS AN AFFIRMATIVE DEFENSE THAT THE VEHICLE IN QUESTION, AT  
18 THE TIME OF THE USE OF THE PUBLIC TRANSPORTATION FACILITY, WAS IN  
19 THE POSSESSION OF A PERSON WHOM THE OWNER HAD NOT KNOWINGLY  
20 PERMITTED TO OPERATE THE VEHICLE.

21 SEC. 7I. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF  
22 FEDERAL FUNDS ARE USED FOR A PUBLIC TRANSPORTATION FACILITY, THE  
23 APPLICABLE FEDERAL LAW OR RULES ARE CONTROLLING IN THE EVENT OF A  
24 CONFLICT WITH THIS ACT.

25 Sec. 10. Documents and instruments of any kind authorized to  
26 be issued or executed by the commission shall be issued or executed  
27 in the name of the "Michigan state ~~highway~~ **TRANSPORTATION**

1 commission" by the ~~chairman~~**CHAIRPERSON** of the commission, or to  
2 the extent expressly authorized by bylaw or resolution, by the vice  
3 ~~chairman~~**CHAIRPERSON**, other member, **THE** director, or other  
4 subordinate. Documents or instruments ~~which~~**THAT** convey interests  
5 or rights in land shall be executed by the ~~chairman or vice~~  
6 ~~chairman and the director or a deputy director~~**AN EMPLOYEE OF THE**  
7 **DEPARTMENT** designated by the ~~commission~~**DIRECTOR**.