

SENATE BILL No. 1181

June 13, 2012, Introduced by Senators BOOHER, HANSEN and CASPERSON 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 promote safe and efficient travel for motor vehicle drivers, bicyclists, pedestrians, and other legal users of roads, streets, and highways; 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, local 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 sections 11 and 11c (MCL 247.661 and 247.661c), section 11 as amended by 2002 PA 639 and section 11c as amended by 2002 PA 498.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

10 (i) For the payment of contributions **PLEDGED BEFORE JULY 18,**
11 **1979 AND** required to be made by the state highway commission or the

1 state transportation commission under contracts entered into before
 2 July 18, 1979, under 1941 PA 205, MCL 252.51 to 252.64, ~~which~~
 3 ~~contributions have been pledged before July 18, 1979, for the~~
 4 payment of the principal and interest on bonds issued under 1941 PA
 5 205, MCL 252.51 to 252.64, for the payment of which a sufficient
 6 sum is irrevocably appropriated.

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

14 (iii) For the payment of the principal and interest on bonds
 15 issued under section 18b for transportation purposes other than
 16 comprehensive transportation purposes as defined by law and the
 17 payment of contributions ~~of~~ **PLEDGED TO THE PAYMENT OF PRINCIPAL AND**
 18 **INTEREST ON BONDS ISSUED UNDER SECTION 18D AND CONTRACTS ENTERED**
 19 **INTO UNDER SECTION 18D BY** the state highway commission or state
 20 transportation commission to be made pursuant to contracts entered
 21 into under section 18d. ~~, which contributions are pledged to the~~
 22 ~~payment of principal and interest on bonds issued under the~~
 23 ~~authorization of section 18d and contracts executed pursuant to~~
 24 ~~that section.~~ A sufficient portion of the fund is irrevocably
 25 appropriated to pay, when due, the principal and interest on bonds
 26 or notes issued under section 18b for purposes other than
 27 comprehensive transportation purposes as defined by law, and to pay

1 the annual contributions of the state highway commission and the
2 state transportation commission as ~~as~~**THAT** are pledged for the payment
3 of bonds issued pursuant to contracts authorized by section 18d.

4 (b) For the transfer of funds appropriated pursuant to section
5 ~~10(1)(g)~~**10(1)(H)** to the transportation economic development fund,
6 but the transfer shall be reduced each fiscal year by the amount of
7 debt service to be paid in that year from the state trunk line fund
8 for bonds, notes, or other obligations issued to fund projects of
9 the transportation economic development fund, which ~~amount~~ shall be
10 certified by the department.

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

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

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

25 (iii) Consistent with the other requirements for these funds,
26 the first priority for funds deposited pursuant to this subdivision
27 for rail grade crossing improvements and retirement shall be to

1 match federal funds from the railroad-highway grade crossing
2 improvement program or other comparable federal programs if a match
3 is required under federal law.

4 (iv) If the department and the road authority with jurisdiction
5 over the crossing formally agree that the grade crossing should be
6 eliminated by permanent closing of the public road or street, the
7 physical removal of the crossing, roadway within railroad rights of
8 way, and street termination treatment will be negotiated between
9 the road authority and railroad company. The funds provided to the
10 road authority as a result of the crossing closure will be credited
11 to its account representing the same road or street system on which
12 the crossing is located and shall be used for any transportation
13 purpose within that road authority's jurisdiction.

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

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

18 (f) For the opening, widening, improving, construction, and
19 reconstruction of state trunk line highways and bridges, including
20 the acquisition of necessary rights of way and the work incidental
21 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 in
26 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 (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 contract
8 including engineering services, and the acquisition of rights of
9 way in connection with the work, by purchase or condemnation by any
10 of the contracting parties in its own name, and for joint
11 participation in the costs, but only to the extent that the
12 contracting parties are otherwise authorized by law to expend money
13 on the highways, roads, or streets. The ~~state transportation~~
14 department also may contract with a county road commission, city,
15 and village to advance money to a county road commission, city, and
16 village agency to pay ~~their~~ **THE** costs of improving railroad grade
17 crossings on the terms and conditions agreed to in the contract. A
18 contract may be executed before or after the state transportation
19 commission borrows money for the purpose of advancing money to a
20 county road commission, city, or village, but the contract shall be
21 executed before the advancement of any money to a county road
22 commission, city, or village by the state transportation
23 commission, and shall provide for the full reimbursement of any
24 advancement by a county road commission, city, or village to the
25 ~~state transportation~~ department, with interest, within 15 years
26 after advancement, from any available revenue sources of the county
27 road commission, city, or village or, if provided in the contract,

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

3 BEGINNING ON OCTOBER 1, 2012, IN ENTERING INTO A CONTRACT UNDER
4 THIS SUBDIVISION OR UNDER SECTION 11C, THE DEPARTMENT SHALL SOLICIT
5 BIDS FROM AND GIVE PREFERENCE TO A COUNTY ROAD COMMISSION FOR WORK
6 TO BE PERFORMED ON A STATE TRUNK LINE HIGHWAY WITHIN THAT COUNTY.

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

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

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

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

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

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

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

27 (ii) A location for which a building permit has been obtained

1 for the renovation of, or addition to, a manufacturing or
2 industrial facility.

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

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

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

14 (g) Amounts expended for the purposes described in subsection
15 (5).

16 (h) Amounts appropriated for deposit in the transportation
17 economic development fund and the rail grade crossing account
18 ~~pursuant to UNDER section 10(1)(g) 10(1)(H) and 10(1)(a).~~

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

25 (3) Notwithstanding any other provision of this act, the ~~state~~
26 ~~transportation~~ department shall expend annually at least 90% of the
27 federal revenue distributed to the credit of the state trunk line

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

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

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

26 (a) The money to be received by the county road commission,
27 city, or village from the Michigan transportation fund, except to

1 the extent the money has been or may in the future be pledged by
2 contract ~~in accordance with~~ **UNDER** 1941 PA 205, MCL 252.51 to
3 252.64, or has been or may in the future be pledged for the payment
4 of the principal and interest upon notes issued ~~pursuant to~~ **UNDER**
5 1943 PA 143, MCL 141.251 to 141.254, or has been or may in the
6 future be pledged for the payment of principal and interest upon
7 bonds issued under section 18c or 18d, or has been or may in the
8 future be pledged for the payment of the principal and interest
9 upon bonds issued pursuant to 1952 PA 175, MCL 247.701 to 247.707.

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

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

1 on the bonds or notes issued to make the loans. However, the ~~state~~
2 ~~transportation~~ department may allow for the deferral of the first
3 payment of interest or principal on the loans for a period ~~of~~ not
4 to exceed 1 year after the respective first payment of interest or
5 principal on the bonds or notes issued to make the loans.

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

15 (8) The county road commission, city, or village is not
16 required to seek or obtain the approval of the electors, the
17 municipal finance commission or its successor agency, or, except as
18 provided in this subsection, the department of treasury to borrow
19 money ~~pursuant to~~ **UNDER** subsection (5). The borrowing is not
20 subject to the revised municipal finance act, 2001 PA 34, MCL
21 141.2101 to 141.2821, or to section ~~5(g)~~ **5(1)(G)** of the home rule
22 city act, 1909 PA 279, MCL 117.5. The ~~state transportation~~
23 department shall give at least 10 days' notice to the state
24 treasurer of its intention to make a loan under subsection (4). If
25 the state treasurer gives notice to the director of the ~~state~~
26 ~~transportation~~ department within 10 days ~~of~~ **AFTER** receiving the
27 notice from the ~~state transportation~~ department, that, based upon

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

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

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

1 subsections (4) to (9).

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

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

19 (13) Contracts entered into to advance money to a county road
20 commission, city, or village under subsection (1)(g) are not
21 subject to the revised municipal finance act, 2001 PA 34, MCL
22 141.2101 to 141.2821.

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

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

27 (b) The installation or improvement of grade crossing

1 surfaces.

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

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

7 (e) Construction of new grade separations.

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

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

15 Sec. 11c. ~~All~~ **SUBJECT TO SECTION 11(1)(G), ALL** federal aid
16 construction projects, all other projects of the department
17 concerning highways, streets, roads, and bridges, whose cost
18 exceeds \$100,000.00 for construction or preservation as defined in
19 section 10c, shall be performed by contract awarded by competitive
20 bidding unless the department ~~shall affirmatively find~~ **FINDS** that
21 under the circumstances relating to those projects, some other
22 method is in the public interest. ~~All of these~~ **THE DEPARTMENT SHALL**
23 **REPORT ITS** findings ~~shall be reported~~ to the state transportation
24 commission 90 days before work is commenced and promptly in writing
25 to the appropriations committees of the senate and house of
26 representatives. However, in a case in which the department
27 determines emergency action is required, the reports need not be

1 filed before work is commenced but shall be promptly filed. Local
2 road agencies that make a decision not to perform construction or
3 preservation projects exceeding \$100,000.00 shall contract for this
4 work through competitive bidding.