

HOUSE BILL No. 5648

February 27, 2018, Introduced by Rep. Victory and referred to the Committee on Natural Resources.

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 10 and 11h (MCL 247.660 and 247.661h), section 10 as amended and section 11h as added by 2016 PA 246, and by adding section 11i.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10. (1) A fund to be known as the Michigan transportation
2 fund is established in the state treasury as a separate fund. The
3 state treasurer may receive money or other assets from any source
4 for deposit into the fund. The state treasurer shall direct the
5 investment of the fund. The state treasurer shall credit to the
6 fund interest and earnings from fund investments. Except as
7 provided in this act, no other money, whether appropriated from the
8 general fund of this state or any other source, shall be deposited
9 in the Michigan transportation fund. Except as otherwise provided
10 in this section, the legislature shall appropriate money for the
11 necessary expenses incurred in the administration and enforcement
12 of the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170,
13 the motor carrier act, 1933 PA 254, MCL 475.1 to 479.42, and

1 sections 801 to 810 of the Michigan vehicle code, 1949 PA 300, MCL
2 257.801 to 257.810. Money appropriated for necessary expenses shall
3 be based upon established cost allocation methodology that reflects
4 actual costs. Appropriations for the necessary expenses incurred by
5 the department of state in administration and enforcement of
6 sections 801 to 810 of the Michigan vehicle code, 1949 PA 300, MCL
7 257.801 to 257.810, shall be made from the Michigan transportation
8 fund and from money in the transportation administration collection
9 fund created in section 810b of the Michigan vehicle code, 1949 PA
10 300, MCL 257.810b. Appropriations from the Michigan transportation
11 fund for the necessary expenses incurred by the department of state
12 in administration and enforcement of sections 801 to 810 of the
13 Michigan vehicle code, 1949 PA 300, MCL 257.801 to 257.810, shall
14 not exceed \$20,000,000.00 per state fiscal year. Except as provided
15 in section 51d of the income tax act of 1967, 1967 PA 281, MCL
16 206.51d, all money in the Michigan transportation fund is
17 apportioned and appropriated in the following manner:

18 (a) Not more than \$3,000,000.00 as may be annually
19 appropriated each fiscal year to the state trunk line fund for
20 subsequent deposit in the rail grade crossing account.

21 (b) Not more than \$3,000,000.00 as may be annually
22 appropriated each fiscal year to the state trunk line fund for
23 subsequent deposit in the grade crossing surface account.

24 (c) Not more than \$3,000,000.00 each year to the local bridge
25 fund established in subsection (4) for the purpose of payment of
26 the principal, interest, and redemption premium on any notes or
27 bonds issued by the state transportation commission under former

1 section 11b or subsection (9).

2 (d) ~~Except~~ **UNTIL THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**
3 **ADDED SECTION 11I, EXCEPT** as otherwise provided in this subdivision
4 and subject to section 11h, \$2,000,000.00 each year of the revenue
5 from 3 cents of the tax levied under section 8(1)(a) of the motor
6 fuel tax act, 2000 PA 403, MCL 207.1008, to the local agency
7 wetland mitigation bank fund created in section 11h.

8 (e) Except as otherwise provided in this subdivision,
9 \$5,000,000.00 each year of the revenue from 3 cents of the tax
10 levied under section 8(1)(a) of the motor fuel tax act, 2000 PA
11 403, MCL 207.1008, to the movable bridge fund created in section
12 11g, with the remainder to the state trunk line fund, county road
13 commissions, and cities and villages in the percentages provided in
14 subdivision (l). The department shall annually adjust the amount
15 allocated under this subdivision by an amount equal to the annual
16 increase in the Detroit consumer price index for the preceding
17 year.

18 (f) One-half of the revenue from 1 cent of the tax levied
19 under section 8(1)(a) of the motor fuel tax act, 2000 PA 403, MCL
20 207.1008, to the state trunk line fund for the repair of state
21 bridges under section 11, and 1/2 of the revenue from 1 cent of the
22 tax levied under section 8(1)(a) of the motor fuel tax act, 2000 PA
23 403, MCL 207.1008, to the local bridge fund created in subsection
24 (4) for distribution only to cities, villages, and county road
25 commissions.

26 (g) \$50,000,000.00 to the state trunk line fund for debt
27 service costs on state of Michigan projects.

1 (h) Ten percent to the comprehensive transportation fund for
2 the purposes described in section 10e.

3 (i) \$5,000,000.00 to the local bridge fund established in
4 subsection (4) for distribution only to the local bridge advisory
5 board, the regional bridge councils, cities, villages, and county
6 road commissions.

7 (j) \$36,775,000.00 to the state trunk line fund for subsequent
8 deposit in the transportation economic development fund, with first
9 priority for allocation to debt service on bonds issued to fund
10 transportation economic development fund projects. In addition,
11 \$3,500,000.00 is appropriated from the Michigan transportation fund
12 to the state trunk line fund for subsequent deposit in the
13 transportation economic development fund to be used for economic
14 development road projects in any of the targeted industries
15 described in section 9(1)(a) of 1987 PA 231, MCL 247.909.

16 (k) Not less than \$33,000,000.00 as may be annually
17 appropriated each fiscal year to the local program fund created in
18 section 11e.

19 (l) The balance of the Michigan transportation fund as
20 follows, after deduction of the amounts appropriated in
21 subdivisions (a) to (k):

22 (i) 39.1% to the state trunk line fund for the purposes
23 described in section 11.

24 (ii) 39.1% to the county road commissions of this state.

25 (iii) 21.8% to the cities and villages of this state.

26 (2) The money appropriated ~~pursuant to~~ **UNDER** this section
27 shall be used for the purposes as provided in this act and any

1 other applicable act. Subject to the requirements of section 9b,
2 the department shall develop programs in conjunction with the
3 Michigan Chamber of Commerce and the Michigan Minority Supplier
4 Development Council to assist small businesses, including those
5 located in enterprise zones and those located in empowerment zones
6 as determined under federal law, as defined by law in becoming
7 qualified to bid.

8 (3) Thirty-one and one-half percent of the money appropriated
9 to this state from the federal government under 23 USC 157,
10 commonly known as minimum guarantee funds, shall be allocated to
11 the transportation economic development fund, if the allocation is
12 consistent with federal law. This money shall be distributed 16-
13 1/2% for development projects for rural counties as defined by law
14 and 15% for capacity improvement or advanced traffic management
15 systems in urban counties as defined by law. Federal money
16 allocated for distribution under this section is eligible for
17 obligation and use by all recipients as provided in the moving
18 ahead for progress in the 21st century act, Public Law 112-141.

19 (4) A fund to be known as the local bridge fund is established
20 in the state treasury as a separate fund. The money appropriated to
21 the local bridge fund and the interest accruing to that fund shall
22 be expended for the local bridge program. The purpose of the fund
23 is to provide financial assistance to highway authorities for the
24 preservation, improvement, or reconstruction of existing bridges or
25 for the construction of bridges to replace existing bridges in
26 whole or part. The money in the local bridge fund is not subject to
27 section 12(15) or 13(5). The local bridge advisory board is created

1 and shall consist of 6 voting members appointed by the state
2 transportation commission and 2 nonvoting members appointed by the
3 department. The board shall include 3 members from the County Road
4 Association of Michigan, 1 member who represents counties with
5 populations 65,000 or greater, 1 member who represents counties
6 with populations greater than 30,000 and less than 65,000, and 1
7 member who represents counties with populations of 30,000 or less.
8 Three members shall be appointed from the Michigan Municipal
9 League, 1 member who represents cities with a population 75,000 or
10 greater, 1 member who represents cities with a population less than
11 75,000, and 1 member who represents villages. Each organization
12 with voting rights shall submit a list of nominees in each
13 population category to the state transportation commission. The
14 state transportation commission shall make the appointments from
15 the lists submitted under this subsection. Voting members shall be
16 appointed for 2 years. The chairperson of the board shall be
17 selected from among the voting members of the board. In addition to
18 the 2 nonvoting members, the department shall provide qualified
19 administrative staff and qualified technical assistance to the
20 board.

21 (5) No less than 5% and no more than 15% of the money received
22 in the local bridge fund may be used for critical repair of large
23 bridges and emergencies as determined by the local bridge advisory
24 board. Money remaining after the money allocated for critical large
25 bridge repair and emergencies is deducted shall be distributed by
26 the board to the regional bridge councils created under this
27 section. One regional council shall be formed for each department

1 of transportation region as those regions exist on October 1, 2004.
2 The regional councils shall consist of 2 members of the County Road
3 Association of Michigan from counties in the region, 2 members of
4 the Michigan Municipal League from cities and villages in the
5 region, and 1 member of the department in each region. The members
6 of the department are nonvoting members and shall provide qualified
7 administrative staff and qualified technical assistance to the
8 regional councils.

9 (6) Money in the local bridge fund after deduction of the
10 amounts set aside for critical repair of large bridges and
11 emergency repairs shall be distributed among the regional bridge
12 councils according to all of the following ratios, which shall be
13 assigned a weight expressed as a percentage as determined by the
14 board, with each ratio receiving no greater than a 50% weight and
15 no less than a 25% weight:

16 (a) A ratio with a numerator that is the total number of local
17 bridges in the region and a denominator that is the total number of
18 local bridges in this state.

19 (b) A ratio with a numerator that is the total local bridge
20 deck area in the region and a denominator that is the total local
21 bridge deck area in this state.

22 (c) A ratio with a numerator that is the total amount of
23 structurally deficient local bridge deck area in the region and a
24 denominator that is the total amount of structurally deficient
25 local bridge deck area in this state.

26 (7) The regional bridge councils shall allocate the money
27 received from the board for the preservation, improvement, and

1 reconstruction of existing bridges or for the construction of
2 bridges to replace existing bridges in whole or in part in each
3 region.

4 (8) Each January, the department shall submit a report to the
5 chair and the minority vice-chair of the appropriations committees
6 of the senate and the house of representatives, and to the standing
7 committees on transportation of the senate and the house of
8 representatives, on all of the following activities for the
9 previous state fiscal year:

10 (a) A listing of how much money was dedicated for emergency
11 and large bridge repair.

12 (b) A listing of what emergency and large bridge repair
13 projects were funded.

14 (c) The actual weights used in the calculation required under
15 subsection (6).

16 (d) A listing of the total money distributed to each region.

17 (e) A listing of the specific projects that were funded under
18 subsection (7).

19 (9) The state transportation commission shall borrow money and
20 issue notes or bonds in an amount of not less than \$30,000,000.00
21 to supplement the funding provided for the local bridge program
22 under subsection (5). The bonds or notes issued under this
23 subsection may be issued by the commission for any purpose for
24 which other local bridge money may be used under this section. The
25 bonds or notes authorized by this subsection shall be issued by
26 resolution of the state transportation commission consistent with
27 the requirements of section 18b.

1 (10) The department shall promulgate rules under the
2 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
3 24.328, governing the administration of the local bridge program.
4 The rules shall set forth the eligibility criteria for financial
5 assistance under the program and other matters related to the
6 program that the department considers necessary and desirable. The
7 department shall take into consideration the availability of
8 federal aid and other financial resources of the highway authority
9 responsible for the bridge, the importance of the bridge to the
10 highway, road, or street network, and the condition of the existing
11 bridge.

12 (11) The revenue appropriated to the local bridge fund under
13 subsection ~~(1)(e)~~ **(1)(C)** shall be distributed only to the local
14 bridge advisory board, the regional bridge councils, cities,
15 villages, and county road commissions.

16 (12) The regional bridge councils shall determine what bridge
17 projects are selected for funding from the local bridge fund
18 created in subsection (4) and shall make a list of selected
19 projects available to interested parties in the region. A
20 determination that a bridge project is selected for funding in a
21 given fiscal year is not approval to disburse the money.

22 (13) A county road commission, city, or village may implement
23 a bridge project if the bridge project has been selected for
24 funding and is included in the appropriate regional bridge
25 council's current multiyear bridge plan for the local bridge
26 program but the regional bridge council has not allocated money to
27 the bridge project for the fiscal year that the bridge project is

1 on the current multiyear bridge plan. A county road commission,
2 city, or village may borrow money to implement a project that has
3 been selected for funding and is included in the appropriate
4 regional bridge council's current multiyear bridge plan but has not
5 been allocated money by the regional bridge council. Based on
6 available local bridge money, when a bridge project that was
7 implemented with borrowed money is allocated funding in a
8 subsequent fiscal year, the funding shall only be used to repay the
9 amount approved by the multiyear bridge plan when the money was
10 borrowed. To be eligible for repayment of the amount borrowed, a
11 bridge project that has been implemented with borrowed money shall
12 be administered through the department's local bridge program.

13 Sec. 11h. (1) The local agency wetland mitigation bank fund is
14 established in the state treasury as a separate fund. The state
15 treasurer may receive money or other assets from any source for
16 deposit into the fund. The state treasurer shall direct the
17 investment of the fund. The state treasurer shall credit to the
18 fund interest and earnings from fund investments.

19 (2) The money appropriated to the local agency wetland
20 mitigation bank fund and the interest accruing to that fund shall
21 be expended for the local agency wetland mitigation bank program.
22 The balance of the fund shall not exceed \$5,000,000.00 at the
23 beginning of a fiscal year, less the amount of funds that have been
24 obligated but not yet expended. The money in the local agency
25 wetland mitigation bank fund is not subject to section 12(15).

26 (3) The local agency wetland mitigation bank advisory board is
27 created and shall consist of the following 9 members:

1 (a) One voting member appointed by the County Road Association
2 of Michigan from a county with a population greater than 400,000.

3 (b) One voting member appointed by the County Road Association
4 of Michigan from a county with a population greater than 65,000 but
5 no more than 400,000.

6 (c) One voting member appointed by the County Road Association
7 of Michigan from a county with a population of less than 65,000.

8 (d) One voting member who shall be an engineer appointed
9 jointly by the County Road Association of Michigan and the Michigan
10 Municipal League.

11 (e) One voting member appointed by the Michigan Municipal
12 League from a city with a population of more than 70,000.

13 (f) One voting member appointed by the Michigan Municipal
14 League from a city with a population of 70,000 or less.

15 (g) One voting member appointed by the Michigan Municipal
16 League from a village.

17 (h) Two nonvoting members appointed by the department and the
18 department of environmental quality.

19 (4) The members first appointed to the board shall be
20 appointed no later than October 1, 2015.

21 (5) Members of the board shall serve for terms of 2 years or
22 until a successor is appointed, whichever is later, except that of
23 the members first appointed 2 of the members appointed by the
24 County Road Association of Michigan and 2 of the members appointed
25 by the Michigan Municipal League shall serve for 1 year.

26 (6) If a vacancy occurs on the board, the person that
27 appointed the vacating member shall make an appointment for the

1 unexpired term in the same manner as the original appointment.

2 (7) A member of the board may be removed for incompetence,
3 dereliction of duty, malfeasance, misfeasance, or nonfeasance in
4 office, or any other good cause.

5 (8) The first meeting of the board shall be called by the
6 member appointed by the department under subsection (3)(h). At the
7 first meeting, the board shall elect from among its voting members
8 a chairperson and other officers as it considers necessary or
9 appropriate. After the first meeting, the board shall meet at least
10 quarterly.

11 (9) A majority of the voting members of the board constitute a
12 quorum for the transaction of business at a meeting of the board. A
13 majority of the members present and serving are required for
14 official action of the board.

15 (10) A board member shall serve without compensation, but may
16 receive reimbursement for necessary travel and expenses consistent
17 with applicable law and rules and procedures of the civil service
18 commission and department of technology, management, and budget or
19 local road agency policies, subject to available funding. The board
20 may employ a part-time or full-time manager or engineer who shall
21 maintain and report the activities of the local agency wetland
22 mitigation bank fund to the board, work with local road agencies,
23 engineers, and environmental consultants to implement this section
24 and promote efficiency and economy in the operations of the local
25 agency wetland mitigation bank program, exercise general oversight
26 of construction to ensure that environmental laws and regulations,
27 plans, and specifications are followed, and perform other duties as

1 directed by the board.

2 (11) The business that the board may perform shall be
3 conducted at a public meeting of the board held in compliance with
4 the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

5 (12) A writing prepared, owned, used, in the possession of, or
6 retained by the board in the performance of an official function is
7 subject to the freedom of information act, 1976 PA 442, MCL 15.231
8 to 15.246.

9 (13) The 2 nonvoting members of the board, the department, and
10 the department of environmental quality shall provide qualified
11 administrative staff and qualified technical assistance to the
12 board as necessary.

13 (14) The local agency wetland mitigation bank program shall
14 provide grants to local road agencies for 1 or more of the
15 following:

16 (a) Complete engineering and design for a wetland mitigation
17 bank.

18 (b) Purchase of land for a wetland mitigation bank.

19 (c) Construction of a wetland mitigation bank.

20 (d) Monitoring and maintenance necessary to ensure that the
21 performance standards are or will be met.

22 (e) Funding for a wetland mitigation bank established before
23 the effective date of the amendatory act that added this section.

24 (15) Not more than 20% of a wetland mitigation bank may be
25 sold to the private sector, and any revenues generated from that
26 sale shall be deposited into the local agency wetland bank program
27 fund.

1 (16) The board may approve the use of grant funds for other
2 activities needed to establish a wetland mitigation bank upon a
3 demonstrated need by a local road agency.

4 (17) An application for a grant from the local agency wetland
5 mitigation bank program shall be made on a form approved by the
6 board and shall contain the information required by the board. A
7 grant application may be made at any time.

8 (18) The board shall establish a review process for
9 considering grant applications under this section. No later than 90
10 days after receiving a grant application under this section, the
11 board shall notify the applicant in writing whether the grant is
12 approved or rejected. If the board fails to notify an applicant in
13 writing whether a grant is approved or rejected within 90 days
14 after receiving the grant application, the grant shall be
15 considered approved. Prior to releasing grant funds, the board
16 shall enter into a grant agreement with the grant recipient.

17 (19) For each year in which the board receives grant
18 applications, the board shall report by October 1 to the standing
19 committees of the senate and the house of representatives with
20 primary jurisdiction over issues pertaining to transportation and
21 natural resources and the environment and to the senate and house
22 of representatives appropriations committees on the utilization of
23 funds from the local agency wetland mitigation bank fund. The
24 report shall include, at a minimum, all of the following:

25 (a) The number of grant applications received under this
26 section.

27 (b) The name of each local road agency applying for a grant,

1 and whether each application was approved or denied.

2 (c) The amount of local match for each grant awarded.

3 (d) The individual and annual cumulative amount of grant funds
4 awarded, including an identification of the purpose of each grant
5 awarded.

6 (20) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT
7 THAT ADDED THIS SUBSECTION, THIS SECTION IS NO LONGER EFFECTIVE.

8 SEC. 11I. (1) BEGINNING ON THE EFFECTIVE DATE OF THE
9 AMENDATORY ACT THAT ADDED THIS SECTION, THE LOCAL AGENCY WETLAND
10 MITIGATION BANK ADVISORY BOARD IS DISSOLVED. THE BOARD SHALL
11 PROVIDE ALL PENDING GRANT APPLICATIONS SUBMITTED UNDER SECTION 11H
12 TO THE MICHIGAN MUNICIPAL WETLAND ALLIANCE AND THE DEPARTMENT OF
13 NATURAL RESOURCES.

14 (2) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
15 ADDED THIS SECTION, THE STATE TREASURER SHALL DISTRIBUTE ALL MONEY
16 IN THE LOCAL AGENCY WETLAND MITIGATION BANK FUND EQUALLY TO THE
17 MICHIGAN MUNICIPAL WETLAND ALLIANCE AND THE WETLAND MITIGATION BANK
18 MAINTAINED BY THE DEPARTMENT OF NATURAL RESOURCES AS PROVIDED IN
19 SECTION 5204F OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
20 ACT, 1994 PA 451, MCL 324.5204F.

21 Enacting section 1. This amendatory act takes effect 90 days
22 after the date it is enacted into law.