

SENATE BILL NO. 379

April 21, 2021, Introduced by Senators NESBITT, BARRETT, HORN, VICTORY, OUTMAN, LAUWERS, MCBROOM and BUMSTEAD and referred to the Committee on Transportation and Infrastructure.

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; to investigate and study the tolling of roads, streets, highways, or bridges; and to repeal acts and parts of acts,"

by amending section 18b (MCL 247.668b), as amended by 2002 PA 498.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 18b. (1) The state transportation commission may borrow
- 2 money and issue notes or bonds for the following purposes:
- 3 (a) To pay all or any portion of or to make loans, grants, or
- 4 contract payments to pay all or any portion of any capital costs
- 5 for the purposes described in section 9 of article IX of the state

1 constitution of 1963.

2 (b) To pay the principal or the principal and interest on
3 notes and, if the state transportation commission considers
4 refunding to be expedient, to refund bonds payable from money in
5 the state trunk line fund or the comprehensive transportation fund
6 or received or to be received from the motor vehicle highway fund
7 or the Michigan transportation fund regardless of when the refunded
8 bonds were issued, by the issuance of new bonds, whether or not the
9 bonds to be refunded have matured or are subject to prior
10 redemption or are to be paid, redeemed, or surrendered at the time
11 of issuance of the refunding bonds; and to issue new bonds partly
12 to refund bonds or pay notes then outstanding and partly for any
13 other transportation purpose authorized by this act.

14 (c) To pay all costs relating to the issuance of the bonds or
15 notes described in this section, including, but not limited to,
16 legal, engineering, accounting, and consulting services, interest
17 on bonds or notes for such period as determined by the state
18 transportation commission in the resolution authorizing the bonds
19 or notes and a reserve for payment of principal, interest, and
20 redemption premiums on the bonds or notes in an amount determined
21 by the state transportation commission in the resolution
22 authorizing the bonds or notes.

23 (2) The refunding bonds described in subsection (1)(b) ~~shall~~
24 **must** be sold and the proceeds and the earnings or profits from the
25 investment of those proceeds applied in whole or in part to the
26 purchase, redemption, or payment of the principal or the principal
27 and interest of the bonds to be refunded and the refunding bonds
28 issued by the state transportation commission under subsection
29 (1)(b) and the costs described in subsection (1)(c). Refunding

1 notes or bonds ~~shall be~~**are** considered to be issued for the same
2 purpose or purposes for which the notes or bonds to be refunded
3 were issued.

4 (3) The notes or bonds authorized by this section ~~shall~~**must**
5 **not** be issued ~~only~~**until** after ~~authorization by resolution of the~~
6 **all of the following occur:**

7 (a) **The** state transportation commission, ~~which~~**gives**
8 **authorization by** resolution ~~shall contain~~**that contains all of** the
9 following:

10 (i) ~~(a)~~An irrevocable pledge providing for the payment of the
11 principal and interest on the notes or bonds from money ~~which~~**that**
12 is restricted as to use by section 9 of article IX of the state
13 constitution of 1963 and ~~which~~**that** is deposited or to be deposited
14 in the comprehensive transportation fund, in the case of bonds or
15 notes issued for comprehensive transportation purposes as defined
16 by law, or in the state trunk line fund, in the case of bonds or
17 notes issued for transportation purposes described in the second
18 paragraph of section 9 of article IX of the state constitution of
19 1963, or in the case of notes or bonds, if the resolution
20 authorizing the notes or bonds provides, from money received or to
21 be received by the state transportation department from the
22 proceeds of bonds or renewal notes to be issued after the date of
23 the resolution or from money received or to be received from the
24 proceeds of the grants described in subsection (9). If the
25 resolution authorizing the bonds or notes so provides, a portion of
26 the principal or interest on the bonds or notes may be secured by
27 an irrevocable pledge of money deposited in the comprehensive
28 transportation fund or the state trunk line fund, and the balance
29 of the principal and interest secured by an irrevocable pledge of

1 the proceeds of bonds or renewal notes or money received or to be
 2 received from the proceeds of the grants described in subsection
 3 (9).

4 **(ii)** ~~(b)~~—A brief statement describing the projects for which
 5 the notes or bonds are to be issued and in the case of notes or
 6 bonds to pay notes or refund bonds, a description of the notes or
 7 bonds to be paid or refunded. For purposes of this section and
 8 section 18k, in connection with bonds issued to fund the loan
 9 program established under section 11(6) to (11), the loan program
 10 ~~shall constitute~~ **constitutes** the project, and it ~~shall is~~ not be
 11 necessary to specify the particular item or costs of a particular
 12 item to be financed from any particular loan made under the loan
 13 program.

14 **(iii)** ~~(c)~~—The estimated cost of the projects or refunding or
 15 refinancing.

16 **(iv)** ~~(d)~~—The detail of the notes or bonds including the date of
 17 issue, maturity date or dates of the bonds or notes, the maximum
 18 interest rate, the dates of payment of interest, the paying agents,
 19 the transfer agent or agents, the provisions for registration, the
 20 redemption provisions, and the manner of execution or, as provided
 21 in subsection (11) (d), the limitations within which ~~such the~~ detail
 22 may be determined by the person designated by the commission.

23 **(b) The state transportation commission presents the**
 24 **resolution described in subdivision (a) to the legislature.**

25 **(c) The legislature approves the resolution described in**
 26 **subdivision (a) by concurrent resolution adopted by 2/3 of each**
 27 **house of the legislature.**

28 (4) If after the issuance of notes or bonds, the state
 29 transportation commission determines that a project for which the

1 notes or bonds are to be issued should be changed, the state
2 transportation commission, by resolution, adopted after the 30
3 days' notice of intention to adopt the resolution has been given to
4 the appropriations committees of the senate and the house of
5 representatives, shall, **if approved by concurrent resolution**
6 **adopted by 2/3 of each house of the legislature**, amend the
7 resolution authorizing the bonds or notes to change the description
8 of the project or projects or to substitute a different project or
9 projects for the project for which the notes or bonds were issued
10 and shall make other revisions in the resolution authorizing the
11 notes or bonds with respect to cost as may be necessary to permit
12 the change in or substitution of a project or projects.

13 (5) Before October 1, 1979, the total amount of bonds and
14 notes issued ~~pursuant to~~ **under** this section for comprehensive
15 transportation purposes as defined by law ~~shall~~ **must** not exceed an
16 amount as will be serviced as to maximum principal and interest
17 requirements by a sum equal to the amount deposited to the credit
18 of the general transportation fund for the fiscal year ending
19 September 30, 1977. After September 30, 1979, the total amount of
20 bonds and notes issued ~~pursuant to~~ **under** this section for
21 comprehensive transportation purposes as defined by law ~~shall~~ **must**
22 not exceed an amount as will be serviced, out of state funds only,
23 as to maximum annual principal and interest requirements by an
24 amount equal to 50% of the total amount of money from taxes ~~, the~~
25 ~~use of which money~~ **that** is restricted **as to use** by section 9 of
26 article IX of the state constitution of 1963 ~~, and which money~~ **that**
27 is deposited in the state treasury to the credit of the
28 comprehensive transportation fund during the state fiscal year
29 immediately preceding the issuance of the bonds or notes.

1 (6) The total amount of bonds and notes issued ~~pursuant to~~
2 **under** this section for transportation purposes described in the
3 second paragraph of section 9 of article IX of the state
4 constitution of 1963 ~~shall~~**must** not exceed an amount as will be
5 serviced as to the maximum principal and interest requirements by a
6 sum equal to ~~50%~~**20%** of the total of the amount of money received
7 from taxes ~~, the use of which~~**that** is restricted **as to use** by
8 section 9 of article IX of the state constitution of 1963 and ~~which~~
9 **that** is deposited in the state treasury to the credit of the state
10 trunk line fund during the state fiscal year immediately preceding
11 the issuance of the bonds or notes.

12 (7) The principal or principal and interest or the portion of
13 principal or interest of bonds or notes ~~which~~**that** are issued in
14 anticipation of the issuance of bonds or renewal notes or of
15 federal grants as provided in subsection (9) and ~~which~~**that** do not
16 pledge for their payment money in the state trunk line fund or the
17 comprehensive transportation fund or money received or to be
18 received by the state transportation department from the Michigan
19 transportation fund or the motor vehicle highway fund ~~shall not be~~
20 ~~considered to be~~**are not** principal and interest requirements
21 subject to the limitation set forth in subsections (5) and (6). The
22 principal of and interest on notes or bonds refunded or for the
23 refunding of which refunding bonds have been sold, whether the
24 bonds to be refunded are to be retired at the time of delivery of
25 the refunding bonds or not, ~~shall not be considered to be~~**are not**
26 principal and interest requirements subject to the limitation set
27 forth in subsections (5) and (6).

28 (8) In computing the maximum annual principal and interest
29 requirements under subsection (6), the total outstanding maximum

1 annual contributions required to be made by the state highway
2 commission and the state transportation commission pursuant to
3 contracts entered into under the authorization of section 18d,
4 ~~which contributions that~~ are pledged to the payment of bonds issued
5 under section 18d, ~~shall~~**must** be included in the amount.

6 (9) The state transportation commission may borrow money and
7 issue notes or bonds in anticipation of the receipt of grants from
8 the United States of America or any agency or instrumentality
9 ~~thereof of the United States of America~~ and may pledge for the
10 payment of the principal, interest, and redemption premiums on such
11 notes or bonds 1 or more of the following:

12 (a) The proceeds of any grant and any investment earnings or
13 gain on the grant.

14 (b) If ~~deemed~~**considered** advisable by the state transportation
15 commission, money ~~which that~~ is restricted as to use by section 9
16 of article IX of the state constitution of 1963, and ~~which that~~ is
17 deposited or to be deposited in the comprehensive transportation
18 fund, in the case of bonds or notes issued for comprehensive
19 transportation purposes as defined by law, or in the state trunk
20 line fund, in the case of bonds or notes issued for transportation
21 purposes described in the second paragraph of section 9 of article
22 IX of the state constitution of 1963.

23 (c) If ~~deemed~~**considered** advisable by the state transportation
24 commission, money received or to be received by the state from the
25 sale of the bonds or notes described in this section to be issued
26 after the issuance of the notes or bonds described in this
27 subsection and any investment earnings or gain thereon.

28 (10) Bonds or notes may be issued under this section as
29 separate issues or series with different dates of issuance, but the

1 aggregate of the bonds or notes ~~shall be~~ **are** subject to the
2 limitations set forth in this section.

3 (11) The state transportation commission in determining to
4 issue bonds or notes may do 1 or more of the following:

5 (a) Authorize and enter into insurance contracts, agreements
6 for lines of credit, letters of credit, commitments to purchase
7 obligations, remarketing agreements, reimbursement agreements, and
8 any other transactions to provide security to assure timely payment
9 of any bonds or notes.

10 (b) Authorize payment from the proceeds of the bonds or notes
11 or other funds available, of the cost of issuance, including, but
12 not limited to, fees for placement, fees or charges for insurance,
13 letters of credit, lines of credit, remarketing agreements,
14 reimbursement agreements, or purchase or sales agreements or
15 commitments, or other agreements to provide security to assure
16 timely payment of bonds or notes.

17 (c) Authorize principal and interest to be payable from 1 or
18 more of the following:

19 (i) Money described in subsection ~~(3)(a)~~ **(3)(a)(i)**.

20 (ii) Proceeds of bonds or notes.

21 (iii) Earning on proceeds of bonds or notes or other funds held
22 for payment of bonds or notes.

23 (iv) Proceeds of any other security provided to assure timely
24 payment of the bonds or notes.

25 (v) Proceeds of federal grants and other money described in
26 subsection (9).

27 (vi) Any combination of the sources described in subparagraphs
28 (i) to (v).

29 (d) Authorize or provide for a person designated by the state

1 transportation commission, but only within limitations ~~which shall~~
2 **that must** be contained in the authorization resolution of the state
3 transportation commission, to do 1 or more of the following:

4 (i) Sell and deliver and receive payment for bonds or notes.

5 (ii) Refund bonds or notes by the delivery of new bonds or
6 notes, whether or not the bonds or notes to be refunded have
7 matured or are subject to redemption ~~prior to~~ **before** maturity on
8 the date of delivery of the refunding bonds or notes.

9 (iii) Deliver bonds or notes partly to refund bonds or notes and
10 partly for any other authorized purposes.

11 (iv) Buy, hold without cancellation, or sell bonds or notes so
12 issued.

13 (v) Approve interest rates or methods for fixing interest
14 rates, prices, discounts, maturities, principal amounts,
15 denominations, dates of issuance, interest payment dates, optional
16 or mandatory redemption or tender rights and obligations to be
17 exercised by the state transportation commission or the holder, the
18 place of delivery and payment, and other matters and procedures
19 necessary to complete the transactions authorized.

20 (e) In connection with outstanding bonds, notes, or other
21 obligations issued under this act, or in connection with the
22 issuance or proposed issuance of bonds, notes, or other
23 indebtedness, the state transportation commission may authorize by
24 resolution the execution and delivery of agreements providing for
25 interest rate exchanges or swaps, hedges, or similar agreements.
26 The obligations of this state under the agreements, including
27 termination payments, may be made payable from and secured by a
28 pledge of the same sources of funds as the bonds, notes, or other
29 obligations in connection with which the agreements are entered

1 into, or from any other sources of funds available as a payment
2 source of bonds, notes, or other obligations issued under this act.
3 In calculating debt service on bonds, notes, and other obligations,
4 the payments and receipts under the agreements authorized by this
5 subsection, without regard to termination payments, and the payment
6 obligations under the bonds, notes, or other obligations in
7 connection with which the agreements are entered into, ~~shall~~**must**
8 be aggregated and treated as a single obligation.

9 (f) Bonds and notes issued under this act are not subject to
10 the revised municipal finance act, 2001 PA 34, MCL 141.2101 to
11 141.2821.

12 (g) The issuance of bonds and notes under this section is
13 subject to the agency financing reporting act, **2002 PA 470, MCL**
14 **129.171 to 129.177.**

15 If additionally secured ~~as provided in~~**under** this subsection,
16 the bonds or notes, notwithstanding other provisions of this act,
17 may be made payable or subject to purchase on demand or ~~prior to~~
18 **before** maturity at the option of the holder at the time and in the
19 manner as determined by the state transportation commission or the
20 designated person as provided in the resolution authorizing the
21 bonds or notes. Any bonds or notes authorized by this section may
22 bear no interest or interest at a rate or rates ~~which~~**that** may be
23 variable but ~~which shall be~~**that are** subject to the limitations
24 provided in section 18e as provided in the resolution authorizing
25 the obligations. If bonds or notes are subject to payment or
26 purchase on demand or ~~prior to~~**before** maturity at the option of the
27 holder, and the obligation of the state to make payment or effect
28 purchases on demand or ~~prior to~~**before** maturity, at the option of
29 the holder is limited to the proceeds of 1 or more of the

1 additional security devices described in this subsection and is not
 2 payable from constitutionally restricted funds deposited in the
 3 comprehensive transportation fund or the state trunk line fund, for
 4 purposes of computing maximum annual principal and interest
 5 requirements under subsections (5) and (6), the principal and
 6 interest on the bonds or notes subject to payment or purchase on
 7 demand or prior redemption at the option of the holder ~~shall~~**must**
 8 be disregarded and the maximum annual principal and interest
 9 requirements ~~which~~**that** would arise with respect to the repayment
 10 of the proceeds of the additional security device ~~shall~~**must** be
 11 substituted. ~~therefor.~~

12 (12) The state transportation commission may withdraw unused
 13 bond authorization by resolution. The legislature may withdraw
 14 unused bond authorization by concurrent resolution adopted by a
 15 majority of each house of the legislature.

16 (13) The department shall submit a report on October 1 of each
 17 year, and submit an updated report not later than 30 days after
 18 issuing a new bond described in subdivision (b), on transportation
 19 debt service to the members of the house of representatives and
 20 senate appropriations committees and transportation subcommittees,
 21 and committees with jurisdiction over transportation, that
 22 includes, at a minimum, both of the following:

23 (a) The percentage of money that is restricted as to use by
 24 section 9 of article IX of the state constitution of 1963 that is
 25 spent on debt servicing for the fiscal year.

26 (b) For all bonds issued by this state for transportation
 27 purposes, including, but not limited to, bonds described in
 28 subsection (1)(b) and bonds issued under section 122 of the
 29 aeronautics code of the state of Michigan, 1945 PA 327, MCL

1 259.122, all of the following information:

2 (i) A listing of bonds by series.

3 (ii) The remaining principal for each bond.

4 (iii) The anticipated payment schedule for each bond.