

Act No. 149
Public Acts of 1993
Approved by the Governor
August 18, 1993
Filed with the Secretary of State
August 19, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Senators Carl, Pridnia and McManus

ENROLLED SENATE BILL No. 461

AN ACT to amend sections 3, 6, 7, 8, 9, 10, 11, and 12 of Act No. 231 of the Public Acts of 1987, entitled as amended "An act to create a transportation economic development fund in the state treasury; to prescribe the uses of and distributions from this fund; to create the office of economic development and to prescribe its powers and duties; to prescribe the powers and duties of the state transportation department, state transportation commission, and certain other bodies; and to permit the issuance of certain bonds," sections 3, 6, 7, 8, and 10 as amended by Act No. 218 of the Public Acts of 1989 and sections 9, 11, and 12 as amended by Act No. 188 of the Public Acts of 1991, being sections 247.903, 247.906, 247.907, 247.908, 247.909, 247.910, 247.911, and 247.912 of the Michigan Compiled Laws; to add section 12a; to repeal certain acts and parts of acts; and to repeal certain parts of the act.

The People of the State of Michigan enact:

Section 1. Sections 3, 6, 7, 8, 9, 10, 11, and 12 of Act No. 231 of the Public Acts of 1987, sections 3, 6, 7, 8, and 10 as amended by Act No. 218 of the Public Acts of 1989 and sections 9, 11, and 12 as amended by Act No. 188 of the Public Acts of 1991, being sections 247.903, 247.906, 247.907, 247.908, 247.909, 247.910, 247.911, and 247.912 of the Michigan Compiled Laws, are amended and section 12a is added to read as follows:

Sec. 3. (1) Money from the fund shall be allocated for projects to be funded pursuant to section 11(3)(a) and (b) in accordance with the adopted policies of the commission. No funds shall be committed to any project, nor shall any project be authorized for any funds under this act, until the commission notifies the senate committee on transportation and tourism and the house committee on transportation and the subcommittees on transportation of the senate and house appropriations committees of the proposed projects in the manner provided in section 18k of Act No. 51 of the Public Acts of 1951, being section 247.668k of the Michigan Compiled Laws. Hearings may be conducted to afford interested parties the opportunity to address aspects of the selection process, the final project list, proposed funding, and related issues. If such hearings are not conducted by the senate committee on transportation and tourism and the house committee on transportation and the subcommittees on transportation of the senate and house appropriations committees within 30 days, if both the senate and house are in session, or 60 days, if either the senate or the house or both are not in session of project notification by the commission, the department may proceed with project authorization for funding.

(2) The commission shall not commit funds to any project in a new category for funding under section 7(3) or section 9(1)(a), added by this amendatory act, or future amendatory acts, before the commission notifies the legislative committees of the criteria for approval of projects under these categories in the same manner described in this section.

(3) Projects in section 11(3)(a) shall be coordinated with projects in section 11(3)(c) through the designated representatives on the urban task forces and regional rural task forces respectively.

(4) The department may be the contracting agent for all projects to be funded by this act. Contracts shall be awarded consistent with the policies of the commission.

(5) The administrator or the person acting in that capacity shall assist the commission in reviewing recommendations for funding projects under this act.

(6) Of the money appropriated to the fund, not more than 1% as annually appropriated by the legislature shall be appropriated for administration of the fund.

(7) The commission shall do the following:

(a) Establish criteria for the awarding of projects.

(b) Exercise such oversight as it may consider appropriate to facilitate its development of policy for administration of the fund.

(c) Review all projects recommended for funding to assure that they satisfy commission policies and criteria. Funds shall not be allocated to projects unless they are in accord with commission policy and criteria.

(8) The office of economic development shall review each project application and recommend the award of funding to selected projects in accordance with the adopted policies of the commission.

Sec. 6. (1) The administrator may solicit project applications for the projects that may be funded under section 11(3)(a) each calendar quarter.

(2) The requirements of the application form shall be prepared by the administrator in accordance with the adopted policies of the commission.

Sec. 7. (1) An applicant shall submit an application for funding on a form approved pursuant to section 6.

(2) The department or a city, village, or county road agency may submit an application. Two or more cities, villages, or county road agencies or a combination of 2 or more of these units may jointly submit an application.

(3) The following minimum requirements shall be met by each applicant in order for the application to be considered:

(a) A particular transportation need shall be shown for the project.

(b) A proposed economic development project shall be related to 1 of the following:

(i) An immediate, nonspeculative opportunity for permanent job creation or retention and an increase in the tax base of the local area if the project is applied for by a local unit of government.

(ii) Projects that contribute to the economic development and redevelopment of areas having experienced or having significant potential to experience job loss. The commission shall adopt criteria for applications and evaluations of projects applied for under this subparagraph within 90 days after the effective date of the amendatory act that added this subparagraph.

(c) Negotiations between an appropriate public agency and a developer or business regarding a location or retention decision shall be in process at the time of application.

(d) The applicant shall indicate that nontransportation infrastructure and support services to support the project are underway or committed.

(e) The applicant shall attach a copy of a resolution of support from the appropriate local unit of government.

(f) The project shall relate to 1 or more of the categories described in section 9.

Sec. 8. (1) Each application shall be submitted for initial review to the administrator who may call upon other personnel of the department to assist in processing, reviewing, and evaluating project applications.

(2) The office of economic development shall review each application based on the criteria approved by the commission and make its recommendation for projects to be funded. The commission and the office of economic development may consult with officers of local units of government, developers, or other experts in the subject matter area of the project in the area in which the project is to be located.

(3) The commission shall inform the chairpersons of the house and senate appropriations committees and the chairpersons of the house and senate committees that consider transportation matters of each project selected for funding not less than 30 days before the awarding of funding pursuant to section 18k of Act No. 51 of the Public Acts of 1951, being section 247.668k of the Michigan Compiled Laws. Funds shall not be committed to any project until the hearings requirement set forth in section 3(1) has been satisfied.

Sec. 9. (1) A project shall relate to 1 or more of the following categories:

(a) Economic development road projects in any of the following targeted industries:

(i) Agriculture or food processing.

(ii) Tourism.

(iii) Forestry.

(iv) High technology research.

(v) Manufacturing.

(vi) Mining.

(vii) Office centers of not less than 50,000 square feet.

(c) Projects for reducing congestion on county primary and city major streets within urban counties including advanced traffic management systems.

(d) Development projects for the improvement of rural primary roads in rural counties and major streets in cities and villages with a population of 5,000 or less.

(e) Projects for development within rural counties on county rural primary roads or major streets within incorporated villages and cities with a population of less than 5,000.

(2) The minimum requirements specified in section 7 for projects identified in subsection (1)(a) shall ensure that those projects satisfy the following requirements:

(a) Meet a particular transportation need that is shown to exist.

(b) Have an immediate positive impact on local employment and the economy.

(c) Exclude speculative projects with little or no return on investment. Projects that contribute to the economic development and redevelopment of areas having experienced or having significant potential to experience job loss which meet the criteria for funding under section 7(3)(b)(ii) shall not be considered speculative for the purposes of this subdivision.

(d) Provide cooperation and support between developers and state and local government.

(e) Were evaluated on the basis of impact on the local community.

(3) A project that is within 1 or more of the categories in subsection (1) shall also meet the criteria developed for that category.

Sec. 10. (1) The costs of a project that are eligible to be funded under section 11(3)(a) and (c) shall be developed by the administrator in accordance with the adopted policies of the commission and shall include at a minimum those costs normally associated with highway construction projects such as project planning, design, right-of-way acquisition, and construction, but excluding routine maintenance.

(2) The costs of a project that are eligible to be funded under section 11(3)(d) shall be developed by the administrator in accordance with the adopted policies of the commission and shall exclude right-of-way acquisition, design, engineering, and routine maintenance.

(3) Matching funds of not less than 20% of the total eligible costs of a project shall be required for those projects described in section 9(1)(a), (c), and (d). This requirement may be set aside in the case of extreme economic hardship for projects described in section 9(1)(a), (c), and (d) in the local unit in which the project is located. Evaluation criteria for projects described in section 9(1)(a) shall include whether there is a contribution of more than the required 20% matching funds as part of the determination of which projects are to be funded.

Sec. 11. (1) Bonds may be issued as authorized by the commission for the purpose of funding projects under this act in the manner provided in sections 18b and 18k of Act No. 51 of the Public Acts of 1951, being sections 247.668b and 247.668k of the Michigan Compiled Laws, and in accordance with the adopted policies of the commission. Bonds shall not be committed for any project under this act until the requirements set forth under section 3(1) have been satisfied.

(2) Projects shall be funded in the following categories in the following amounts:

(a) The first \$5,000,000.00 of the fund shall be distributed each fiscal year to each qualified county in a percentage amount equal to the same percentage amount that the number of acres of commercial forest, national park, and national lakeshore land in each qualified county bears to the total number of acres of commercial forest, national park, and national lakeshore land in all qualified counties in this state. Revenue distributed under this subdivision shall be used for the construction or reconstruction of roads.

(b) The next \$2,500,000.00 of the fund shall be distributed each fiscal year for improvements to roads and streets that are eligible for federal aid in cities and villages having a population of 5,000 or greater within rural counties.

(3) Of the balance remaining after funding projects pursuant to subsection (2), projects shall be funded in the categories described in section 9 based on the following percentages:

(a) 50% for economic development road projects in any of the targeted industries.

(c) 25% for projects to reduce congestion on county primary and city major streets within urban counties including advanced traffic management systems. The funds shall be distributed to counties with populations in excess of 400,000 in accordance with the following formula:

<u>Population</u>	<u>Percentage of Funds</u>
1,750,000 or more	16%
1,000,000 to 1,750,000	40%
600,000 to 1,000,000	20%
400,000 to 600,000	24%

When 2 or more counties occupy the same category, the funds shall be divided equally.

Projects funded under this category shall be used for the widening of county primary roads or city major streets or for advanced traffic management systems in eligible counties.

(d) 25% for development projects within rural counties. These revenues shall be distributed for the improvement of rural primary roads in rural counties and major streets in cities and villages with a population of 5,000 or less. Funds distributed under this subdivision shall be allocated by the commission to the regional rural task force areas defined in section 12a in the same proportion that the rural primary mileage of the regional rural task force area bears to the total rural primary mileage of all counties. Each rural county shall be credited with an allocation in the proportion that the county's rural primary mileage is to the total rural primary mileage of those rural counties within the same regional rural task force area. Projects funded under this subdivision shall be limited to upgrading rural primary roads and major streets to create an all-season road network.

(4) The obligation authority for any federal funds allocated under section 10 of Act No. 51 of the Public Acts of 1951, being section 247.660 of the Michigan Compiled Laws, shall be distributed equally among urban task forces and regional rural task forces according to the distribution formula outlined in subsection (3)(c) and (d). An additional 1.5% of the obligation authority for federal funds identified in section 10 of Act No. 51 of the Public Acts of 1951 shall be distributed among the regional rural task forces according to the distribution formula outlined in subsection (3)(d). These funds shall be obligated and used consistent with the provisions of section 10 of Act No. 51 of the Public Acts of 1951.

Sec. 12. (1) The urban task force which represents the majority of the communities in the urban area of each county shall select and designate for eligibility projects for funding under section 11(3)(c) within their respective allocations. One nonvoting member of each task force shall be a designee of and represent the administrator. In the case of widening projects only, the task forces shall designate projects for eligibility as follows:

(a) Projects shall be eligible for federal aid.

(b) Projects shall consist of adding travel lanes, left turn lanes, and intersectional improvements to roads with 2 travel lanes carrying more than 10,000 vehicles per day or roads with more than 2 travel lanes carrying more than 25,000 vehicles per day in accordance with traffic counts done on or before April 1, 1993.

(2) Projects funded under section 11(4) shall be consistent with the provisions of section 10 of Act No. 51 of the Public Acts of 1951, being section 247.660 of the Michigan Compiled Laws.

(3) If any task force fails to submit sufficient qualified projects to obligate its allocation by July 1 of any fiscal year, those funds shall be made available to the remaining urban task forces in the same proportion as the original allocation.

(4) The individual urban task forces shall propose project result evaluation criteria for all projects to the administrator and the commission for review and comment.

(5) The urban task forces shall report to the administrator on an annual basis the status of all projects selected for funding.

(6) The programs and projects authorized in section 11(3)(c) shall be administered in a similar manner as current federal aid projects and in accordance with the adopted policies of the commission.

Sec. 12a. (1) The regional rural task force shall make recommendations to the commission and the administrator for funding projects under section 11(3)(d) within their respective regions. If any represented county fails to submit sufficient qualified projects to obligate its allocation after 3 consecutive years, those funds shall be reallocated to the remaining counties in the same regional rural task force area. The regional rural task force areas shall coincide with the boundaries of the 14 state planning and development regions as configured on January 1, 1990. In a regional rural task force area that is composed of 5 or more counties, subtask forces of 2 or more of the counties may be formed with the approval of the task force.

(2) The regional rural task force shall be composed of a representative of each county road commission within the regional area plus an equal number of representatives from incorporated cities and villages with a population of 5,000 or less within the regional area, and a representative selected by the administrator. Projects submitted to the administrator for funding under section 11(3)(d) shall be based on the following:

- (a) Only projects eligible for federal aid shall be funded unless otherwise approved by the regional rural task force.
- (b) Projects shall be on existing hard surface roads unless otherwise waived by the regional rural task force.
- (c) Construction shall be to all-season standards.
- (d) These funds shall be used for physical construction only and shall not include costs of right-of-way acquisition and engineering.
- (3) Projects funded under section 11(4) shall be consistent with the provisions of section 10 of Act No. 51 of the Public Acts of 1951, being section 247.660 of the Michigan Compiled Laws.
- (4) The programs and projects authorized in section 11(3)(d) shall be administered in a similar manner as the current local federal aid projects and in accordance with the adopted policies of the commission.

Section 2. The following acts and parts of acts are repealed:

- (a) Sections 5 and 14 of Act No. 231 of the Public Acts of 1987, being sections 247.905 and 247.914 of the Michigan Compiled Laws.
- (b) Act No. 233 of the Public Acts of 1987, being sections 247.931 to 247.933 of the Michigan Compiled Laws.

Section 3. This amendatory act shall not take effect unless House Bill No. 4257 of the 87th Legislature is enacted into law.

This act is ordered to take immediate effect.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.