

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 388

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 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 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, critical 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 certain acts and parts of acts,"

by amending section 10e (MCL 247.660e), as amended by 1997 PA 79.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10e. (1) The comprehensive transportation fund is
2 appropriated for each fiscal year in the following order of
3 priority.

4 (2) The first priority is to pay, but only from money
5 restricted as to use by section 9 of article IX of the state con-
6 stitution of 1963, the principal and interest on bonds or notes
7 issued under section 18b for comprehensive transportation pur-
8 poses as defined by law. A sufficient portion of the comprehen-
9 sive transportation fund is irrevocably appropriated to pay, when
10 due, the principal and interest on those bonds and notes.

11 (3) After making or setting aside payments required by sub-
12 section (2), the second priority of the comprehensive transporta-
13 tion fund is the payment of the department's cost in administer-
14 ing the comprehensive transportation fund. The amount to be
15 expended pursuant to this subsection shall not exceed the costs
16 appropriated for the administration of the fund in the fiscal
17 year ending September 30, 1987, as adjusted annually on October

SB0388, As Passed House, February 25, 1998

Senate Bill No. 388

3

1 1, by the change for the preceding 12 months in the Detroit
2 consumer price index for urban wage earners and shall be appro-
3 priated annually by the legislature.

4 (4) After making or setting aside payments required by sub-
5 sections (2) and (3), the balance of the comprehensive transpor-
6 tation fund shall be expended each fiscal year as appropriated
7 annually by the legislature pursuant to the state transportation
8 program approved by the commission as follows:

9 (a) The third priority shall be the payment of operating
10 grants to eligible authorities and eligible governmental agencies
11 according to the following formulations and subject to the fol-
12 lowing requirements:

13 (i) For the fiscal year ending September 30, 1998, and for
14 each fiscal year thereafter, each eligible authority and eligible
15 governmental agency which provides public transportation services
16 in urbanized areas under Public Law 103-272, 49 U.S.C. 5307, with
17 a Michigan population greater than 100,000 shall receive a grant
18 of up to 50% of their eligible operating expenses as defined by
19 the state transportation department.

20 (ii) For the fiscal year ending September 30, 1998, and each
21 fiscal year thereafter, each eligible authority and eligible gov-
22 ernmental agency which provides public transportation services in
23 urbanized areas with a Michigan population less than or equal to
24 100,000 and nonurbanized areas under Public Law 103-272, 49
25 U.S.C. 5311, shall receive a grant of up to 60% of their eligible
26 operating expenses as defined by the state transportation
27 department. For purposes of receiving a grant under this

SB0388, As Passed House, February 25, 1998

Senate Bill No. 388

4

1 subparagraph in nonurbanized areas, eligible costs of services
2 provided by water vehicle shall be reimbursed at not less than
3 50% of the portion of the costs not eligible for reimbursement by
4 the federal government.

5 (iii) Funds shall not be distributed to an eligible author-
6 ity or eligible governmental agency under this act unless the
7 eligible authority or eligible governmental agency provides or
8 agrees to provide preferential fares for public transportation
9 services to persons 65 years of age or over or ~~handicappers~~
10 PERSONS WITH DISABILITIES riding in off peak periods of service.
11 As used in this section, ~~"handicapper"~~ "PERSON WITH
12 DISABILITIES" means ~~a handicapped person as that term is defined~~
13 ~~by the United States department of transportation in~~ AN INDIVID-
14 UAL WITH A DISABILITY AS THAT TERM IS DEFINED IN 61 F.R.P. 56424
15 (NOVEMBER 1, 1996) AND 49 C.F.R. part 27. The preferential fares
16 shall not be higher than 50% of the regular 1-way single fare.

17 (iv) Eligible authorities and eligible governmental agencies
18 shall not engage in charter service using vehicles, facilities,
19 or equipment funded under this act except on an incidental basis
20 as defined by 49 C.F.R. part 604.

21 (v) Notwithstanding any other provision of this subsection,
22 for the fiscal year ending September 30, 1998, each eligible
23 authority and eligible governmental agency shall receive a dis-
24 tribution from the comprehensive transportation fund not less
25 than the distribution received for eligible operating expenses
26 for the fiscal year ending September 30, 1997. Beginning with
27 the fiscal year ending September 30, 1998 and each fiscal year

SB0388, As Passed House, February 25, 1998

Senate Bill No. 388

5

1 thereafter, each eligible authority and eligible governmental
2 agency shall receive a distribution from the comprehensive trans-
3 portation fund for eligible operating expenses not less than the
4 distribution received for the fiscal year ending September 30,
5 1997. As it relates to this subsection the ratio between compre-
6 hensive transportation funds and local funds in the fiscal year
7 ending September 30, 1989 shall be maintained for all fiscal
8 years by the eligible authority and eligible governmental
9 agency. Reductions in this ratio shall require a proportionate
10 reduction in the comprehensive transportation funds provided for
11 any fiscal year.

12 (vi) Each eligible authority and eligible governmental
13 agency receiving comprehensive transportation funds shall prepare
14 and submit to the department a quarterly report of the progress
15 made in carrying out its local transportation program within 40
16 days after the end of each fiscal year quarter. The progress
17 report shall be made on forms authorized by the United States
18 department of transportation under the provisions of THE SURFACE
19 TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1987,
20 Public Law 100-17, 101 STAT. 132.

21 (vii) The department shall periodically adjust or redistrib-
22 ute comprehensive transportation funds previously distributed
23 under this subdivision.

24 (b) For the fiscal year ending September 30, 1997, and each
25 fiscal year thereafter, not less than 10% shall be distributed by
26 the department for intercity passenger and intercity freight
27 transportation purposes.

SB0388, As Passed House, February 25, 1998

Senate Bill No. 388

6

1 (c) For the fiscal year ending September 30, 1997, and each
2 fiscal year thereafter, funds remaining in the fund after payment
3 of the amounts required by subdivisions (a) and (b) shall be dis-
4 tributed by the department for public transportation purposes.
5 For the fiscal year ending September 30, 1998, and each fiscal
6 year thereafter, funds shall be made available to match all
7 projects for eligible authorities and eligible governmental agen-
8 cies that are approved for federal funding as provided by federal
9 law and for which an approved transportation improvement program
10 (TIP) and state transportation improvement plan (STIP) exist.
11 Funds distributed under this subdivision shall be expended pursu-
12 ant to specific line item appropriation for, but are not limited
13 to, the following public transportation purposes:

14 (i) The specialized services assistance program. The spe-
15 cialized services assistance program shall be funded with not
16 less than \$3,600,100.00 from funds distributed under this
17 subdivision. Funds shall be distributed according to guidelines
18 developed by the department based upon the following
19 considerations:

20 (A) Proposals for coordinated specialized services assist-
21 ance funding shall be developed jointly between existing eligible
22 authorities or eligible governmental agencies that provide public
23 transportation services and the area agencies on aging or any
24 other organization representing specialized services interests,
25 as defined in this subdivision. Plans shall be reviewed and
26 approved by the bureau of urban and public transportation of the
27 department. Upon approval, the department shall release the

SB0388, As Passed House, February 25, 1998

Senate Bill No. 388

7

1 funds to the eligible authority or eligible governmental agency
2 which shall then allocate the funds to the area agency on aging
3 or any other organization representing specialized services
4 interests, as defined in this subdivision for the purchase of
5 services as approved in the plan by the department.

6 (B) If an eligible authority or eligible governmental agency
7 does not exist to provide public transportation service in a
8 county, coordinated proposals for specialized services assistance
9 funding may be submitted by the area agency on aging or any other
10 organization representing specialized services interests, as
11 defined in this subdivision. The proposals shall be reviewed and
12 approved by the bureau of urban and public transportation of the
13 department. Upon approval, the department shall release the
14 funds to the area agency on aging or any other organization rep-
15 resenting specialized services interests, as defined in this sub-
16 division for the purchase of services as approved in the plan by
17 the department.

18 (C) For the purposes of this program, "specialized services"
19 means public transportation primarily designed for persons ~~who~~
20 ~~are handicappers or~~ WITH DISABILITIES OR PERSONS who are 65
21 years of age or older.

22 (ii) Local bus capital. For the fiscal year ending
23 September 30, 1998 and each fiscal year thereafter, not less than
24 \$8,000,000.00 will be distributed for either matching federal
25 funds for local bus capital or 100% capital projects for eligible
26 authorities and eligible governmental agencies that are not
27 eligible to receive federal capital formula funds under section

SB0388, As Passed House, February 25, 1998

Senate Bill No. 388

8

1 5307 of the federal intermodal surface transportation efficiency
2 act, Public Law 102-240, or any successor act.

3 (iii) Local bus new services.

4 (iv) Not less than \$2,000,000.00 in each fiscal year for the
5 credit program established under section 101.

6 (v) Public transportation development.

7 (vi) Other public transportation programs approved by the
8 commission.

9 (d) The unappropriated and unencumbered balance of the com-
10 prehensive transportation fund lapses at the end of each fiscal
11 year and reverts to the comprehensive transportation fund for
12 appropriation in the following fiscal year.

13 (5) Eligible authorities and eligible governmental agencies
14 shall receive capital grants each fiscal year by the annual pro-
15 cess described in this section. Amounts received by an eligible
16 authority or eligible governmental agency pursuant to this sub-
17 section shall be expended by that authority or agency solely for
18 capital projects which have been approved by the state transpor-
19 tation commission. Any funds approved by distribution to an eli-
20 gible authority or eligible governmental agency pursuant to this
21 section which have not been encumbered by that agency or author-
22 ity for an approved capital project by the end of the following
23 fiscal year in which the funds were approved shall not be
24 expended by the authority or agency and be available for distri-
25 bution from the comprehensive transportation fund for the pur-
26 poses described in this section.

SB0388, As Passed House, February 25, 1998

Senate Bill No. 388

9

1 (6) The department, in carrying out the policy of the state
2 transportation commission, shall annually prepare and distribute
3 by December 1, instructions to eligible governmental agencies,
4 eligible authorities, and intercity carriers to enable the prepa-
5 ration of a local transportation program. Eligible governmental
6 agencies, eligible authorities, and intercity carriers shall give
7 public notice of their intent to apply for money in the compre-
8 hensive transportation fund to the residents of the counties,
9 townships, villages, and cities affected by the local transporta-
10 tion program and shall make their application available for a
11 period of 30 days. All comments received by the eligible govern-
12 mental agency, eligible authority, or intercity carrier shall be
13 transmitted to the department.

14 (7) On or before March 1 of each year, each intercity carri-
15 er, eligible authority, and eligible governmental agency shall
16 submit to the department its local transportation program for the
17 next succeeding fiscal year. The format for each local transpor-
18 tation program shall be as prescribed by the federal transporta-
19 tion improvement program insofar as practical and shall include
20 project descriptions, funding sources, and justification for each
21 line item, and summary budgets based on distributions anticipated
22 under subsection (4). The program shall contain at a minimum the
23 contemplated routes, hours of service, estimated transit vehicle
24 miles, costs of public transportation services, and projected
25 capital improvements or projects as exclusively determined by the
26 eligible authority or eligible governmental agency. The costs of
27 service and capital improvements or projects shall be in

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SB0388, As Passed House, February 25, 1998

Senate Bill No. 388

10

1 sufficient detail to permit the state transportation department
2 to evaluate and approve the annual public transportation
3 program. Determination of individual projects to be included in
4 the local transportation programs other than those provided in
5 this subsection shall be made by the governing body of the eligi-
6 ble authority or eligible governmental agency.

7 (8) On or before March 1 of each year, the department shall
8 prepare and file for public inspection and review the department
9 transportation program. The department transportation program
10 shall be prepared on similar format to the local transportation
11 programs, and shall include a summary description of projects,
12 with funding sources and project justifications for each line
13 item for the fiscal year immediately succeeding the fiscal year
14 in which the program is submitted. In addition, the department
15 transportation program shall include summary, nondetailed budget
16 and project descriptions and justifications excluding projects
17 contained in a local transportation program.

18 (9) On or before April 1 of each year, the department shall
19 prepare and file with the commission the proposed state transpor-
20 tation program for the next succeeding fiscal year. The proposed
21 state transportation program shall contain the local transporta-
22 tion programs of each intercity carrier, eligible authority and
23 eligible governmental agency, the department transportation pro-
24 gram, and the programs for the expenditure of the state trunk
25 line fund as they may have been supplemented, amended, or modi-
26 fied since their original filing. The state transportation
27 program shall include the estimated amount of money in the funds

SB0388, As Passed House, February 25, 1998

Senate Bill No. 388

11

1 described in this subsection by revenue source, project
2 justifications, project descriptions funding sources, and budget
3 summaries.

4 (10) On or before May 1 of each year, the state transporta-
5 tion commission shall act on the state transportation program for
6 the fiscal year commencing on the following October 1. In con-
7 sidering approval of the proposed projects of each intercity car-
8 rier, eligible authority, or eligible governmental agency, other
9 than projects which are to be funded pursuant to subsection (5),
10 the state transportation commission shall consider whether the
11 projects comply with state law, are within funds allocated in
12 this section, whether they may be funded within the approved bud-
13 gets, whether there are intercity carriers, eligible authorities,
14 and eligible governmental agencies responsible to implement the
15 projects, and the recommendations of the department on individual
16 projects. Upon making those determinations, the state transpor-
17 tation commission shall approve the projects which best meet the
18 criteria of this subsection.

19 (11) By October 1, the department and each intercity carri-
20 er, eligible authority, or eligible governmental agency shall
21 enter into a contractual agreement or standardized grant memoran-
22 dum of agreement, which may cover 1 or more projects to be made
23 from this section in the applicable fiscal year to the intercity
24 carrier, eligible authority, or eligible governmental agency from
25 the comprehensive transportation fund.

26 (12) After a multiyear public transportation program is
27 approved by the state transportation commission, the state

SB0388, As Passed House, February 25, 1998

Senate Bill No. 388

12

1 transportation department may enter into a grant-in-aid
2 instrument with an eligible authority, intercity carrier, or eli-
3 gible governmental agency obligating the state to a minimum level
4 of funding for approved projects to be available over the multi-
5 year period of the program. This obligation shall be binding
6 upon the state transportation department as long as the provi-
7 sions and conditions of the state transportation commission
8 approved program are carried out as agreed.

9 (13) Contracts and grant memorandum agreements may be
10 audited by the state transportation commission's office of com-
11 mission audits using rules promulgated by the United States gen-
12 eral accounting office and the terms and conditions of the
13 respective contracts and agreements. Third party agreements are
14 subject to the review and approval of the department.

15 (14) Funds distributed by the department may pay 100% of the
16 portion of the cost not eligible for reimbursement by the federal
17 government for eligible capital projects authorized by the state
18 transportation commission using comprehensive transportation
19 funds or the proceeds of notes and bonds issued under section
20 18b. Priority for funding obligation shall be given to capital
21 projects for which federal funds have been authorized.

22 (15) All approved local bus new services initiated by eligi-
23 ble authorities and eligible governmental agencies not in their
24 fourth year or beyond of funding on October 1, 1988, shall be
25 funded from subsection (4)(c)(iii). Local bus new services shall
26 be funded under subsection (4)(c)(iii) in the following

SB0388, As Passed House, February 25, 1998

Senate Bill No. 388

13

1 percentages of eligible operating expenses as determined by the
2 department:

3 (a) Startup 100%.

4 (b) First year 90%.

5 (c) Second year 80%.

6 (d) Third year 70%.

7 (e) Fourth year and each year thereafter, as determined by
8 and from funds provided under subsection (4)(a).

9 The balance of eligible operating expenses shall be met from
10 local revenue sources including farebox. The department shall
11 pay up to 100% of eligible capital expenses during the startup
12 and first 3 years of service, after the third year, the depart-
13 ment shall participate in eligible capital expenses in the same
14 percentage as for other eligible authorities and eligible govern-
15 mental agencies. For the purposes of this subsection, eligible
16 operating and capital expenses means those expenses determined by
17 the department as applicable to existing eligible authorities and
18 eligible governmental agencies. The department shall prioritize
19 annually all requests for comprehensive transportation funds to
20 institute new services under this subsection. First priority
21 shall be given to eligible authorities and eligible governmental
22 agencies who have not completed their first 3 years of service by
23 October 1, 1998. New services initiated by eligible authorities
24 and eligible governmental agencies under this subsection shall
25 meet all of the requirements of section 10.

26 (16) The department shall pay up to 80% of the portion of
27 the cost not eligible for reimbursement by the federal government

SB0388, As Passed House, February 25, 1998

Senate Bill No. 388

14

1 for intercity passenger operating assistance projects authorized
2 by the commission for the first 2 years of new services. For the
3 third year, eligible costs shall be reimbursed at up to 60% of
4 the portion of the cost not eligible for reimbursement by the
5 federal government. After the third year, eligible costs shall
6 be reimbursed at up to 50% of the portion of the cost not eligi-
7 ble for reimbursement by the federal government. Eligible costs
8 of services provided as of September 30, 1981, shall be reim-
9 bursed at up to 50% of the portion of the cost not eligible for
10 reimbursement by the federal government. However, the amount of
11 funds from the comprehensive transportation fund when added to
12 federal funds and local funds shall not exceed the total operat-
13 ing assistance project cost.

14 (17) A vehicle purchased, leased, or rented after
15 November 15, 1976, by an eligible authority or eligible govern-
16 mental agency with funds made available under this act, which
17 funds were not already committed under a contract in existence on
18 November 15, 1976, shall not be used to provide service on a
19 fixed schedule and fixed route for which a passenger fee is
20 charged unless the vehicle is accessible to a person using a
21 wheelchair from a roadway level or curb level, and has accommoda-
22 tions in which 1 or more wheelchairs can be secured.

23 (18) A vehicle shall not be purchased, leased, or rented by
24 an eligible authority or eligible governmental agency after
25 October 1, 1978, with funds made available under this act which
26 vehicle is used to provide demand actuated service unless the
27 eligible authority or eligible governmental agency has submitted

SB0388, As Passed House, February 25, 1998

Senate Bill No. 388

15

1 a plan to the state transportation department describing the
2 service to be provided by the demand actuated service to persons
3 65 years of age or older and ~~handicappers~~ PERSONS WITH
4 DISABILITIES within the applicable service area and that plan has
5 been approved by the department. The department shall approve
6 the plan as submitted or modified or shall reject the plan within
7 60 days after the plan is submitted. A plan which describes the
8 service to be provided by the demand actuated service shall not
9 be approved by the department unless that plan provides the
10 following:

11 (a) That demand actuated service will be provided to persons
12 65 years of age or older and ~~handicappers~~ PERSONS WITH
13 DISABILITIES residing in the entire service area subject to the
14 plan.

15 (b) That as a minimum, demand actuated service will be pro-
16 vided to persons 65 years of age or older and ~~handicappers~~
17 PERSONS WITH DISABILITIES during the same hours as service is
18 provided to all other persons in the service area subject to the
19 plan.

20 (c) That the average time period required for demand actu-
21 ated service to persons 65 years of age or older and
22 ~~handicappers~~ PERSONS WITH DISABILITIES from the initiation of a
23 service request to arrival at the destination is equal to the
24 average time period required for demand actuated service provided
25 to all other persons in the service area subject to the plan.

26 (d) That the eligible authority or eligible governmental
27 agency submitting the plan has established a local advisory

SB0388, As Passed House, February 25, 1998

Senate Bill No. 388

16

1 council with not less than 50% of its membership representing
2 persons 65 years of age or older and ~~handicappers~~ PERSONS WITH
3 DISABILITIES within the service area subject to the plan and that
4 the local advisory council has had an opportunity to review and
5 comment upon the plan before its submission to the department.
6 Each eligible authority or eligible governmental agency jointly
7 with the area agency on aging shall approve at least 1 or the
8 equivalent of 12% of the membership of the local advisory
9 council. Each advisory council comment shall be included in the
10 plan when submitted to the department.

11 (19) Notwithstanding subsection (18), a plan required by
12 subsection (18) which is not approved or rejected by the state
13 transportation department within 60 days after submission shall
14 be considered approved as submitted.

15 (20) Subsections (17), (18), and (19) shall not apply to
16 vehicles or facilities used to transport persons by rail, air, or
17 water or to vehicles of common carriers licensed by the state
18 transportation department.

19 (21) ~~Beginning~~ AFTER January 1, 1979, the department shall
20 submit an annual report to the legislature detailing the service
21 provided in the prior year for persons 65 years of age or older
22 and ~~handicappers~~ PERSONS WITH DISABILITIES by fixed route serv-
23 ice and demand actuated service. This report shall include a
24 record of passenger usage and shall be submitted by April 1 of
25 each year.

26 (22) Notwithstanding any other provision of this section, if
27 the unreserved balance of the comprehensive transportation fund

SB0388, As Passed House, February 25, 1998

Senate Bill No. 388

17

1 as of September 30, 1997 is greater than \$50,000,000.00, then the
2 entire unreserved balance minus \$50,000,000.00 shall be appropri-
3 ated for the fiscal year ending September 30, 1998 only to local
4 bus transit authorities for discretionary capital expenditures.
5 These funds shall be distributed to individual authorities in the
6 same proportion provided for in the provisions of
7 section 10e(4)(a)(i) except that the costs of services provided
8 by water vehicle shall not be eligible for reimbursement.