

Act No. 87
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senators Cherry, Conroy, Gougeon, North, Bullard, Vaughn, V. Smith, Peters, A. Smith, DeBeaussaert, Young, Stallings, Byrum and Koivisto

ENROLLED SENATE BILL No. 388

AN ACT 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 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, 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:

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

(2) The first priority is to pay, but only from money restricted as to use by section 9 of article IX of the state constitution of 1963, the principal and interest on bonds or notes issued under section 18b for comprehensive transportation purposes as defined by law. A sufficient portion of the comprehensive transportation fund is irrevocably appropriated to pay, when due, the principal and interest on those bonds and notes.

(3) After making or setting aside payments required by subsection (2), the second priority of the comprehensive transportation fund is the payment of the department's cost in administering the comprehensive transportation fund. The amount to be expended pursuant to this subsection shall not exceed the costs appropriated for the administration

of the fund in the fiscal year ending September 30, 1987, as adjusted annually on October 1, by the change for the preceding 12 months in the Detroit consumer price index for urban wage earners and shall be appropriated annually by the legislature.

(4) After making or setting aside payments required by subsections (2) and (3), the balance of the comprehensive transportation fund shall be expended each fiscal year as appropriated annually by the legislature pursuant to the state transportation program approved by the commission as follows:

(a) The third priority shall be the payment of operating grants to eligible authorities and eligible governmental agencies according to the following formulations and subject to the following requirements:

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

(ii) For the fiscal year ending September 30, 1998, and each fiscal year thereafter, each eligible authority and eligible governmental agency which provides public transportation services in urbanized areas with a Michigan population less than or equal to 100,000 and nonurbanized areas under Public Law 103-272, 49 U.S.C. 5311, shall receive a grant of up to 60% of their eligible operating expenses as defined by the state transportation department. For purposes of receiving a grant under this subparagraph in nonurbanized areas, eligible costs of services provided by water vehicle shall be reimbursed at not less than 50% of the portion of the costs not eligible for reimbursement by the federal government.

(iii) Funds shall not be distributed to an eligible authority or eligible governmental agency under this act unless the eligible authority or eligible governmental agency provides or agrees to provide preferential fares for public transportation services to persons 65 years of age or over or persons with disabilities riding in off peak periods of service. As used in this section, "person with disabilities" means an individual with a disability as that term is defined in 61 F.R.P. 56424 (November 1, 1996) and 49 C.F.R. part 27. The preferential fares shall not be higher than 50% of the regular 1-way single fare.

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

(v) Notwithstanding any other provision of this subsection, for the fiscal year ending September 30, 1998, each eligible authority and eligible governmental agency shall receive a distribution from the comprehensive transportation fund not less than the distribution received for eligible operating expenses for the fiscal year ending September 30, 1997. Beginning with the fiscal year ending September 30, 1998 and each fiscal year thereafter, each eligible authority and eligible governmental agency shall receive a distribution from the comprehensive transportation fund for eligible operating expenses not less than the distribution received for the fiscal year ending September 30, 1997. As it relates to this subsection the ratio between comprehensive transportation funds and local funds in the fiscal year ending September 30, 1989 shall be maintained for all fiscal years by the eligible authority and eligible governmental agency. Reductions in this ratio shall require a proportionate reduction in the comprehensive transportation funds provided for any fiscal year.

(vi) Each eligible authority and eligible governmental agency receiving comprehensive transportation funds shall prepare and submit to the department a quarterly report of the progress made in carrying out its local transportation program within 40 days after the end of each fiscal year quarter. The progress report shall be made on forms authorized by the United States department of transportation under the provisions of the surface transportation and uniform relocation assistance act of 1987, Public Law 100-17, 101 Stat. 132.

(vii) The department shall periodically adjust or redistribute comprehensive transportation funds previously distributed under this subdivision.

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

(c) For the fiscal year ending September 30, 1997, and each fiscal year thereafter, funds remaining in the fund after payment of the amounts required by subdivisions (a) and (b) shall be distributed by the department for public transportation purposes. For the fiscal year ending September 30, 1998, and each fiscal year thereafter, funds shall be made available to match all projects for eligible authorities and eligible governmental agencies that are approved for federal funding as provided by federal law and for which an approved transportation improvement program (TIP) and state transportation improvement plan (STIP) exist. Funds distributed under this subdivision shall be expended pursuant to specific line item appropriation for, but are not limited to, the following public transportation purposes:

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

(A) Proposals for coordinated specialized services assistance funding shall be developed jointly between existing eligible authorities or eligible governmental agencies that provide public transportation services and the area agencies on aging or any other organization representing specialized services interests, as defined in this subdivision. Plans shall be reviewed and approved by the bureau of urban and public transportation of the department. Upon approval, the department shall release the funds to the eligible authority or eligible governmental agency which shall then allocate

the funds to the area agency on aging or any other organization representing specialized services interests, as defined in this subdivision for the purchase of services as approved in the plan by the department.

(B) If an eligible authority or eligible governmental agency does not exist to provide public transportation service in a county, coordinated proposals for specialized services assistance funding may be submitted by the area agency on aging or any other organization representing specialized services interests, as defined in this subdivision. The proposals shall be reviewed and approved by the bureau of urban and public transportation of the department. Upon approval, the department shall release the funds to the area agency on aging or any other organization representing specialized services interests, as defined in this subdivision for the purchase of services as approved in the plan by the department.

(C) For the purposes of this program, "specialized services" means public transportation primarily designed for persons with disabilities or persons who are 65 years of age or older.

(i) Local bus capital. For the fiscal year ending September 30, 1998 and each fiscal year thereafter, not less than \$8,000,000.00 will be distributed for either matching federal funds for local bus capital or 100% capital projects for eligible authorities and eligible governmental agencies that are not eligible to receive federal capital formula funds under section 5307 of the federal intermodal surface transportation efficiency act, Public Law 102-240, or any successor act.

(ii) Local bus new services.

(iv) Not less than \$2,000,000.00 in each fiscal year for the credit program established under section 10I.

(v) Public transportation development.

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

(d) The unappropriated and unencumbered balance of the comprehensive transportation fund lapses at the end of each fiscal year and reverts to the comprehensive transportation fund for appropriation in the following fiscal year.

(5) Eligible authorities and eligible governmental agencies shall receive capital grants each fiscal year by the annual process described in this section. Amounts received by an eligible authority or eligible governmental agency pursuant to this subsection shall be expended by that authority or agency solely for capital projects which have been approved by the state transportation commission. Any funds approved by distribution to an eligible authority or eligible governmental agency pursuant to this section which have not been encumbered by that agency or authority for an approved capital project by the end of the following fiscal year in which the funds were approved shall not be expended by the authority or agency and be available for distribution from the comprehensive transportation fund for the purposes described in this section.

(6) The department, in carrying out the policy of the state transportation commission, shall annually prepare and distribute by December 1, instructions to eligible governmental agencies, eligible authorities, and intercity carriers to enable the preparation of a local transportation program. Eligible governmental agencies, eligible authorities, and intercity carriers shall give public notice of their intent to apply for money in the comprehensive transportation fund to the residents of the counties, townships, villages, and cities affected by the local transportation program and shall make their application available for a period of 30 days. All comments received by the eligible governmental agency, eligible authority, or intercity carrier shall be transmitted to the department.

(7) On or before March 1 of each year, each intercity carrier, eligible authority, and eligible governmental agency shall submit to the department its local transportation program for the next succeeding fiscal year. The format for each local transportation program shall be as prescribed by the federal transportation improvement program insofar as practical and shall include project descriptions, funding sources, and justification for each line item, and summary budgets based on distributions anticipated under subsection (4). The program shall contain at a minimum the contemplated routes, hours of service, estimated transit vehicle miles, costs of public transportation services, and projected capital improvements or projects as exclusively determined by the eligible authority or eligible governmental agency. The costs of service and capital improvements or projects shall be in sufficient detail to permit the state transportation department to evaluate and approve the annual public transportation program. Determination of individual projects to be included in the local transportation programs other than those provided in this subsection shall be made by the governing body of the eligible authority or eligible governmental agency.

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

(9) On or before April 1 of each year, the department shall prepare and file with the commission the proposed state transportation program for the next succeeding fiscal year. The proposed state transportation program shall contain the local transportation programs of each intercity carrier, eligible authority and eligible governmental agency, the department transportation program, and the programs for the expenditure of the state trunk line fund as they may have been supplemented, amended, or modified since their original filing. The state transportation program shall include the estimated amount of money in the funds described in this subsection by revenue source, project justifications, project descriptions funding sources, and budget summaries.

(10) On or before May 1 of each year, the state transportation commission shall act on the state transportation program for the fiscal year commencing on the following October 1. In considering approval of the proposed projects of each intercity carrier, eligible authority, or eligible governmental agency, other than projects which are to be funded pursuant to subsection (5), the state transportation commission shall consider whether the projects comply with state law, are within funds allocated in this section, whether they may be funded within the approved budgets, whether there are intercity carriers, eligible authorities, and eligible governmental agencies responsible to implement the projects, and the recommendations of the department on individual projects. Upon making those determinations, the state transportation commission shall approve the projects which best meet the criteria of this subsection.

(11) By October 1, the department and each intercity carrier, eligible authority, or eligible governmental agency shall enter into a contractual agreement or standardized grant memorandum of agreement, which may cover 1 or more projects to be made from this section in the applicable fiscal year to the intercity carrier, eligible authority, or eligible governmental agency from the comprehensive transportation fund.

(12) After a multiyear public transportation program is approved by the state transportation commission, the state transportation department may enter into a grant-in-aid instrument with an eligible authority, intercity carrier, or eligible governmental agency obligating the state to a minimum level of funding for approved projects to be available over the multiyear period of the program. This obligation shall be binding upon the state transportation department as long as the provisions and conditions of the state transportation commission approved program are carried out as agreed.

(13) Contracts and grant memorandum agreements may be audited by the state transportation commission's office of commission audits using rules promulgated by the United States general accounting office and the terms and conditions of the respective contracts and agreements. Third party agreements are subject to the review and approval of the department.

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

(15) All approved local bus new services initiated by eligible authorities and eligible governmental agencies not in their fourth year or beyond of funding on October 1, 1988, shall be funded from subsection (4)(c)(iii). Local bus new services shall be funded under subsection (4)(c)(iii) in the following percentages of eligible operating expenses as determined by the department:

(a) Startup 100%.

(b) First year 90%.

(c) Second year 80%.

(d) Third year 70%.

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

The balance of eligible operating expenses shall be met from local revenue sources including farebox. The department shall pay up to 100% of eligible capital expenses during the startup and first 3 years of service, after the third year, the department shall participate in eligible capital expenses in the same percentage as for other eligible authorities and eligible governmental agencies. For the purposes of this subsection, eligible operating and capital expenses means those expenses determined by the department as applicable to existing eligible authorities and eligible governmental agencies. The department shall prioritize annually all requests for comprehensive transportation funds to institute new services under this subsection. First priority shall be given to eligible authorities and eligible governmental agencies who have not completed their first 3 years of service by October 1, 1998. New services initiated by eligible authorities and eligible governmental agencies under this subsection shall meet all of the requirements of section 10.

(16) The department shall pay up to 80% of the portion of the cost not eligible for reimbursement by the federal government for intercity passenger operating assistance projects authorized by the commission for the first 2 years of new services. For the third year, eligible costs shall be reimbursed at up to 60% of the portion of the cost not eligible for reimbursement by the federal government. After the third year, eligible costs shall be reimbursed at up to 50% of the portion of the cost not eligible for reimbursement by the federal government. Eligible costs of services provided as of September 30, 1981, shall be reimbursed at up to 50% of the portion of the cost not eligible for reimbursement by the federal government. However, the amount of funds from the comprehensive transportation fund when added to federal funds and local funds shall not exceed the total operating assistance project cost.

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

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

department describing the service to be provided by the demand actuated service to persons 65 years of age or older and persons with disabilities within the applicable service area and that plan has been approved by the department. The department shall approve the plan as submitted or modified or shall reject the plan within 60 days after the plan is submitted. A plan which describes the service to be provided by the demand actuated service shall not be approved by the department unless that plan provides the following:

(a) That demand actuated service will be provided to persons 65 years of age or older and persons with disabilities residing in the entire service area subject to the plan.

(b) That as a minimum, demand actuated service will be provided to persons 65 years of age or older and persons with disabilities during the same hours as service is provided to all other persons in the service area subject to the plan.

(c) That the average time period required for demand actuated service to persons 65 years of age or older and persons with disabilities from the initiation of a service request to arrival at the destination is equal to the average time period required for demand actuated service provided to all other persons in the service area subject to the plan.

(d) That the eligible authority or eligible governmental agency submitting the plan has established a local advisory council with not less than 50% of its membership representing persons 65 years of age or older and persons with disabilities within the service area subject to the plan and that the local advisory council has had an opportunity to review and comment upon the plan before its submission to the department. Each eligible authority or eligible governmental agency jointly with the area agency on aging shall approve at least 1 or the equivalent of 12% of the membership of the local advisory council. Each advisory council comment shall be included in the plan when submitted to the department.

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

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

(21) After January 1, 1979, the department shall submit an annual report to the legislature detailing the service provided in the prior year for persons 65 years of age or older and persons with disabilities by fixed route service and demand actuated service. This report shall include a record of passenger usage and shall be submitted by April 1 of each year.

(22) Notwithstanding any other provision of this section, if the unreserved balance of the comprehensive transportation fund as of September 30, 1997 is greater than \$50,000,000.00, then the entire unreserved balance minus \$50,000,000.00 shall be appropriated for the fiscal year ending September 30, 1998 only to local bus transit authorities for discretionary capital expenditures. These funds shall be distributed to individual authorities in the same proportion provided for in the provisions of section 10e(4)(a)(i) except that the costs of services provided by water vehicle shall not be eligible for reimbursement.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved _____

Governor.