

SENATE BILL No. 1301

May 7, 2002, Introduced by Senator EMMONS and referred to the Committee on Finance.

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 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 acts and parts of acts,"

by amending section 18b (MCL 247.668b), as amended by 1985 PA 201.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 18b. (1) The state transportation commission may
2 borrow money and issue notes or bonds for the following
3 purposes:

4 (a) To pay all or any portion of or to make loans, grants,
5 or contract payments to pay all or any portion of any capital
6 costs for the purposes described in section 9 of article IX of
7 the state constitution of 1963.

8 (b) To pay the principal or the principal and interest on
9 notes and, if the state transportation commission considers
10 refunding to be expedient, to refund bonds payable from money in
11 the state trunk line fund or the comprehensive transportation
12 fund or received or to be received from the motor vehicle highway
13 fund or the Michigan transportation fund regardless of when the
14 refunded bonds were issued, by the issuance of new bonds, whether
15 or not the bonds to be refunded have matured or are subject to
16 prior redemption or are to be paid, redeemed, or surrendered at

SB 1301, As Passed Senate, May 15, 2002

3

1 the time of issuance of the refunding bonds; and to issue new
2 bonds partly to refund bonds or pay notes then outstanding and
3 partly for any other transportation purpose authorized by this
4 act.

5 (c) To pay all costs relating to the issuance of the bonds
6 or notes described in this section, including, but not limited
7 to, legal, engineering, accounting, and consulting services,
8 interest on bonds or notes for such period as determined by the
9 state transportation commission in the resolution authorizing the
10 bonds or notes and a reserve for payment of principal, interest,
11 and redemption premiums on the bonds or notes in an amount deter-
12 mined by the state transportation commission in the resolution
13 authorizing the bonds or notes.

14 (2) The refunding bonds described in subsection (1)(b) shall
15 be sold and the proceeds and the earnings or profits from the
16 investment of those proceeds applied in whole or in part to the
17 purchase, redemption, or payment of the principal or the princi-
18 pal and interest of the bonds to be refunded and the refunding
19 bonds issued by the state transportation commission under subsec-
20 tion (1)(b) and the costs described in subsection (1)(c).

21 Refunding notes or bonds shall be considered to be issued for the
22 same purpose or purposes for which the notes or bonds to be
23 refunded were issued.

24 (3) The notes or bonds authorized by this section shall be
25 issued only after authorization by resolution of the state trans-
26 portation commission, which resolution shall contain the
27 following:

SB 1301, As Passed Senate, May 15, 2002

4

1 (a) An irrevocable pledge providing for the payment of the
2 principal and interest on the notes or bonds from money ~~which~~
3 THAT is restricted as to use by section 9 of article IX of the
4 state constitution of 1963 and ~~which~~ THAT is deposited or to be
5 deposited in the comprehensive transportation fund, in the case
6 of bonds or notes issued for comprehensive transportation pur-
7 poses as defined by law, or in the state trunk line fund, in the
8 case of bonds or notes issued for transportation purposes
9 described in the second paragraph of section 9 of article IX of
10 the state constitution of 1963, or in the case of notes or bonds,
11 if the resolution authorizing the notes or bonds provides, from
12 money received or to be received by the state transportation
13 department from the proceeds of bonds or renewal notes to be
14 issued after the date of the resolution or from money received or
15 to be received from the proceeds of the grants described in sub-
16 section (9). If the resolution authorizing the bonds or notes so
17 provides, a portion of the principal or interest on the bonds or
18 notes may be secured by an irrevocable pledge of money deposited
19 in the comprehensive transportation fund or the state trunk line
20 fund, and the balance of the principal and interest secured by an
21 irrevocable pledge of the proceeds of bonds or renewal notes or
22 money received or to be received from the proceeds of the grants
23 described in subsection (9).

24 (b) A brief statement describing the projects for which the
25 notes or bonds are to be issued and in the case of notes or bonds
26 to pay notes or refund bonds, a description of the notes or bonds
27 to be paid or refunded. For purposes of this section and section

SB 1301, As Passed Senate, May 15, 2002

5

1 18k, in connection with bonds issued to fund the loan program
2 established under section 11(7) to (12), the loan program shall
3 constitute the project, and it shall not be necessary to specify
4 the particular item or costs of a particular item to be financed
5 from any particular loan made under the loan program.

6 (c) The estimated cost of the projects or refunding or
7 refinancing.

8 (d) The detail of the notes or bonds including the date of
9 issue, maturity date or dates of the bonds or notes, the maximum
10 interest rate, the dates of payment of interest, the paying
11 agents, the transfer agent or agents, the provisions for regis-
12 tration, the redemption provisions, and the manner of execution
13 or, as provided in subsection (11)(d), the limitations within
14 which such detail may be determined by the person designated by
15 the commission.

16 (4) If after the issuance of notes or bonds, the state
17 transportation commission determines that a project for which the
18 notes or bonds are to be issued should be changed, the state
19 transportation commission, by resolution, adopted after the 30
20 days' notice of intention to adopt the resolution has been given
21 to the appropriations committees of the senate and the house of
22 representatives, shall amend the resolution authorizing the bonds
23 or notes to change the description of the project or projects or
24 to substitute a different project or projects for the project for
25 which the notes or bonds were issued and shall make other revi-
26 sions in the resolution authorizing the notes or bonds with

SB 1301, As Passed Senate, May 15, 2002

6

1 respect to cost as may be necessary to permit the change in or
2 substitution of a project or projects.

3 (5) Before October 1, 1979, the total amount of bonds and
4 notes issued pursuant to this section for comprehensive transpor-
5 tation purposes as defined by law shall not exceed an amount as
6 will be serviced as to maximum principal and interest require-
7 ments by a sum equal to the amount deposited to the credit of the
8 general transportation fund for the fiscal year ending
9 September 30, 1977. After September 30, 1979, the total amount
10 of bonds and notes issued pursuant to this section for comprehen-
11 sive transportation purposes as defined by law shall not exceed
12 an amount as will be serviced, out of state funds only, as to
13 maximum annual principal and interest requirements by an amount
14 equal to 50% of the total amount of money from taxes, the use of
15 which money is restricted by section 9 of article IX of the state
16 constitution of 1963, and which money is deposited in the state
17 treasury to the credit of the comprehensive transportation fund
18 during the state fiscal year immediately preceding the issuance
19 of the bonds or notes.

20 (6) The total amount of bonds and notes issued pursuant to
21 this section for transportation purposes described in the second
22 paragraph of section 9 of article IX of the state constitution of
23 1963 shall not exceed an amount as will be serviced as to the
24 maximum principal and interest requirements by a sum equal to 50%
25 of the total of the amount of money received from taxes, the use
26 of which is restricted by section 9 of article IX of the state
27 constitution of 1963 and which is deposited in the state treasury

SB 1301, As Passed Senate, May 15, 2002

7

1 to the credit of the state trunk line fund during the state
2 fiscal year immediately preceding the issuance of the bonds or
3 notes.

4 (7) The principal or principal and interest or the portion
5 of principal or interest of bonds or notes ~~which~~ THAT are
6 issued in anticipation of the issuance of bonds or renewal notes
7 or of federal grants as provided in subsection (9) and ~~which~~
8 THAT do not pledge for their payment money in the state trunk
9 line fund or the comprehensive transportation fund or money
10 received or to be received by the state transportation department
11 from the Michigan transportation fund or the motor vehicle high-
12 way fund shall not be considered to be principal and interest
13 requirements subject to the limitation set forth in subsections
14 (5) and (6). The principal of and interest on notes or bonds
15 refunded or for the refunding of which refunding bonds have been
16 sold, whether the bonds to be refunded are to be retired at the
17 time of delivery of the refunding bonds or not, shall not be con-
18 sidered to be principal and interest requirements subject to the
19 limitation set forth in subsections (5) and (6).

20 (8) In computing the maximum annual principal and interest
21 requirements under subsection (6), the total outstanding maximum
22 annual contributions required to be made by the state highway
23 commission and the state transportation commission pursuant to
24 contracts entered into under the authorization of section 18d,
25 which contributions are pledged to the payment of bonds issued
26 under section 18d, shall be included in the amount.

SB 1301, As Passed Senate, May 15, 2002

8

1 (9) The state transportation commission may borrow money and
2 issue notes or bonds in anticipation of the receipt of grants
3 from the United States of America or any agency or instrumental-
4 ity thereof and may pledge for the payment of the principal,
5 interest, and redemption premiums on such notes or bonds 1 or
6 more of the following:

7 (a) The proceeds of any such grant and any investment earn-
8 ings or gain thereon.

9 (b) If deemed advisable by the state transportation commis-
10 sion, money ~~which~~ THAT is restricted as to use by section 9 of
11 article IX of the state constitution of 1963, and ~~which~~ THAT is
12 deposited or to be deposited in the comprehensive transportation
13 fund, in the case of bonds or notes issued for comprehensive
14 transportation purposes as defined by law, or in the state trunk
15 line fund, in the case of bonds or notes issued for transporta-
16 tion purposes described in the second paragraph of section 9 of
17 article IX of the state constitution of 1963.

18 (c) If deemed advisable by the state transportation commis-
19 sion, money received or to be received by the state from the sale
20 of the bonds or notes described in this section to be issued
21 after the issuance of the notes or bonds described in this sub-
22 section and any investment earnings or gain thereon.

23 (10) Bonds or notes may be issued under this section as sep-
24 arate issues or series with different dates of issuance, but the
25 aggregate of the bonds or notes shall be subject to the limita-
26 tions set forth in this section.

SB 1301, As Passed Senate, May 15, 2002

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

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

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

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

17 (i) Money described in subsection (3)(a).

18 (ii) Proceeds of bonds or notes.

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

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

23 (v) Proceeds of federal grants and other money described in
24 subsection (9).

25 (vi) Any combination of the sources described in subpara-
26 graphs (i) to (v).

SB 1301, As Passed Senate, May 15, 2002

03430'01

SB 1301, As Passed Senate, May 15, 2002

10

1 (d) Authorize or provide for a person designated by the
2 state transportation commission, but only within limitations
3 ~~which~~ THAT shall be contained in the authorization resolution
4 of the state transportation commission, to do 1 or more of the
5 following:

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

8 (ii) Refund bonds or notes by the delivery of new bonds or
9 notes, whether or not the bonds or notes to be refunded have
10 matured or are subject to redemption prior to maturity on the
11 date of delivery of the refunding bonds or notes.

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

14 (iv) Buy, hold without cancellation, or sell bonds or notes
15 so issued.

16 (v) Approve interest rates or methods for fixing interest
17 rates, prices, discounts, maturities, principal amounts, denomi-
18 nations, dates of issuance, interest payment dates, optional or
19 mandatory redemption or tender rights and obligations to be exer-
20 cised by the state transportation commission or the holder, the
21 place of delivery and payment, and other matters and procedures
22 necessary to complete the transactions authorized.

23 (12) If additionally secured as provided in ~~this~~ subsec-
24 tion (11), the bonds or notes, notwithstanding other provisions
25 of this act, may be made payable or subject to purchase on demand
26 or prior to maturity at the option of the holder at the time and
27 in the manner as determined by the state transportation

SB 1301, As Passed Senate, May 15, 2002

03430'01

SB 1301, As Passed Senate, May 15, 2002

11

1 commission or the designated person as provided in the resolution
2 authorizing the bonds or notes. Any bonds or notes authorized by
3 this section may bear no interest or interest at a rate or rates
4 ~~which~~ THAT may be variable but ~~which~~ THAT shall be subject to
5 the limitations provided in section 18e as provided in the reso-
6 lution authorizing the obligations. If bonds or notes are
7 subject to payment or purchase on demand or prior to maturity at
8 the option of the holder, and the obligation of ~~the~~ THIS state
9 to make payment or effect purchases on demand or prior to maturi-
10 ty, at the option of the holder is limited to the proceeds of 1
11 or more of the additional security devices described in this sub-
12 section and is not payable from constitutionally restricted funds
13 deposited in the comprehensive transportation fund or the state
14 trunk line fund, for purposes of computing maximum annual princi-
15 pal and interest requirements under subsections (5) and (6), the
16 principal and interest on the bonds or notes subject to payment
17 or purchase on demand or prior redemption at the option of the
18 holder shall be disregarded and the maximum annual principal and
19 interest requirements ~~which~~ THAT would arise with respect to
20 the repayment of the proceeds of the additional security device
21 shall be substituted therefor.

22 (13) IN CONNECTION WITH OUTSTANDING BONDS, NOTES, OR OTHER
23 OBLIGATIONS ISSUED UNDER THIS ACT, OR IN CONNECTION WITH THE
24 ISSUANCE OR PROPOSED ISSUANCE OF BONDS, NOTES, OR OTHER INDEBTED-
25 NESS, THE STATE TRANSPORTATION COMMISSION MAY AUTHORIZE BY RESO-
26 LUTION THE EXECUTION AND DELIVERY OF AGREEMENTS PROVIDING FOR
27 INTEREST RATE EXCHANGES OR SWAPS, HEDGES, OR SIMILAR AGREEMENTS.

SB 1301, As Passed Senate, May 15, 2002

12

1 THE OBLIGATIONS OF THIS STATE UNDER THE AGREEMENTS, INCLUDING
2 TERMINATION PAYMENTS, MAY BE MADE PAYABLE FROM AND SECURED BY A
3 PLEDGE OF THE SAME SOURCES OF FUNDS AS THE BONDS, NOTES, OR OTHER
4 OBLIGATIONS IN CONNECTION WITH WHICH THE AGREEMENTS ARE ENTERED
5 INTO, OR FROM ANY OTHER SOURCES OF FUNDS AVAILABLE AS A PAYMENT
6 SOURCE OF BONDS, NOTES, OR OTHER OBLIGATIONS ISSUED UNDER THIS
7 ACT. IN CALCULATING DEBT SERVICE ON BONDS, NOTES, AND OTHER
8 OBLIGATIONS, THE PAYMENTS AND RECEIPTS UNDER THE AGREEMENTS
9 AUTHORIZED BY THIS SUBSECTION, WITHOUT REGARD TO TERMINATION PAY-
10 MENTS, AND THE PAYMENT OBLIGATIONS UNDER THE BONDS, NOTES, OR
11 OTHER OBLIGATIONS IN CONNECTION WITH WHICH THE AGREEMENTS ARE
12 ENTERED INTO, SHALL BE AGGREGATED AND TREATED AS A SINGLE
13 OBLIGATION.

14 (14) BONDS AND NOTES ISSUED UNDER THIS ACT ARE NOT SUBJECT
15 TO THE REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO
16 141.2821.

17 (15) THE ISSUANCE OF BONDS AND NOTES UNDER THIS SECTION IS
18 SUBJECT TO THE AGENCY FINANCING REPORTING ACT.