

SENATE BILL No. 168

February 11, 2003, Introduced by Senator THOMAS and referred to the Committee on Commerce and Labor.

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 sections 10c, 10h, 10l, and 10n (MCL 247.660c, 247.660h, 247.660l, and 247.660n), sections 10c and 10h as amended by 2002 PA 498, section 10l as amended by 1987 PA 234, and section 10n as amended by 2002 PA 329.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 10c. As used in this act:
- 2 (a) "Urban or rural area" means a contiguous developed area,
- 3 including the immediate surrounding area, where transportation
- 4 services should reasonably be provided presently or in the
- 5 future; the area within the jurisdiction of an eligible
- 6 authority; or for the purpose of receiving funds for public
- 7 transportation, a contiguous developed area having a population
- 8 of less than 50,000 population that has an urban public
- 9 transportation program approved by the state transportation
- 10 department and for which the state transportation commission
- 11 determines that public transportation services should reasonably
- 12 be provided presently or in the future.
- 13 (b) "Eligible authority" means an authority organized

1 ~~pursuant to~~ **under** the metropolitan transportation authorities
2 act of 1967, 1967 PA 204, MCL 124.401 to 124.426, **or an authority**
3 **organized or continued under the Detroit area regional**
4 **transportation authority act.**

5 (c) "Eligible governmental agency" means a county, city, or
6 village or an authority created ~~pursuant to~~ **under** 1963 PA 55,
7 MCL 124.351 to 124.359; the urban cooperation act of 1967, 1967
8 (Ex Sess) PA 7, MCL 124.501 to 124.512; 1967 (Ex Sess) PA 8,
9 MCL 124.1 to 124.13; 1951 PA 35, MCL 124.1 to 124.13; the public
10 transportation authority act, 1986 PA 196, MCL 124.451 to
11 124.479; or the revenue bond act of 1933, 1933 PA 94, MCL 141.101
12 to 141.140.

13 (d) "Transit vehicle" means a bus, rapid transit vehicle,
14 railroad car, water vehicle, taxicab, or other type of public
15 transportation vehicle or individual unit, whether operated
16 singly or in a group which provides public transportation.

17 (e) "Transit vehicle mile" means a transit vehicle operated
18 for 1 mile in public transportation service including demand
19 actuated and line-haul vehicle miles.

20 (f) "Demand actuated vehicle" means a bus or smaller transit
21 vehicle operated for providing group rides to members of the
22 general public paying fares individually, and on demand rather
23 than in regularly scheduled route service.

24 (g) "Demand actuated vehicle mile" means a demand actuated
25 vehicle operated for 1 mile in service to the general public.

26 (h) "Public transportation", "comprehensive transportation",
27 "public transportation service", "comprehensive transportation

1 service", "public transportation purpose", or "comprehensive
2 transportation purpose" means the movement of people and goods by
3 publicly or privately owned water vehicle, bus, railroad car,
4 aircraft, rapid transit vehicle, taxicab, or other conveyance
5 which provides general or special service to the public, but not
6 including charter or sightseeing service or transportation which
7 is exclusively for school purposes. Public transportation,
8 public transportation services, or public transportation
9 purposes; and comprehensive transportation, comprehensive
10 transportation services, or comprehensive transportation purposes
11 as defined in this subdivision are declared by law to be
12 transportation purposes within the meaning of section 9 of
13 article IX of the state constitution of 1963.

14 (i) "State transportation commission" means the state
15 transportation commission established in section 28 of article V
16 of the state constitution of 1963.

17 (j) "Governmental unit" means the state transportation
18 department, the state transportation commission, a county road
19 commission, a city, or a village.

20 (k) "Department" or "department of transportation" means the
21 state transportation department, which may be referred to
22 administratively as the department of transportation.

23 (l) "Preservation" means an activity undertaken to preserve
24 the integrity of the existing roadway system. Preservation does
25 not include new construction of highways, roads, streets, or
26 bridges, a project that increases the capacity of a highway
27 facility to accommodate that part of traffic having neither an

1 origin nor destination within the local area, widening of a lane
2 width or more, or adding turn lanes of more than 1/2 mile in
3 length. Preservation includes, but is not limited to, 1 or more
4 of the following:

5 (i) Maintenance.

6 (ii) Capital preventive treatments.

7 (iii) Safety projects.

8 (iv) Reconstruction.

9 (v) Resurfacing.

10 (vi) Restoration.

11 (vii) Rehabilitation.

12 (viii) Widening of less than the width of 1 lane.

13 (ix) Adding auxiliary weaving, climbing, or speed change
14 lanes.

15 (x) Modernizing intersections.

16 (xi) Adding auxiliary turning lanes of 1/2 mile or less.

17 (m) "Maintenance" means routine maintenance or preventive
18 maintenance, or both. Maintenance does not include capital
19 preventive treatments, resurfacing, reconstruction, restoration,
20 rehabilitation, safety projects, widening of less than 1 lane
21 width, adding auxiliary turn lanes of 1/2 mile or less, adding
22 auxiliary weaving, climbing, or speed-change lanes, modernizing
23 intersections, or the upgrading of aggregate surface roads to
24 hard surface roads. Maintenance of state trunk line highways
25 does not include streetlighting except for freeway lighting for
26 traffic safety purposes.

27 (n) "Routine maintenance" means actions performed on a

1 regular or controllable basis or in response to uncontrollable
2 events upon a highway, road, street, or bridge. Routine
3 maintenance includes, but is not limited to, 1 or more of the
4 following:

- 5 (i) Snow and ice removal.
- 6 (ii) Pothole patching.
- 7 (iii) Unplugging drain facilities.
- 8 (iv) Replacing damaged sign and pavement markings.
- 9 (v) Replacing damaged guardrails.
- 10 (vi) Repairing storm damage.
- 11 (vii) Repair, replacement, or operation of traffic signal
12 systems.
- 13 (viii) Emergency environmental cleanup.
- 14 (ix) Emergency repairs.
- 15 (x) Emergency management of road closures that result from
16 uncontrollable events.
- 17 (xi) Cleaning streets and associated drainage.
- 18 (xii) Installing traffic signs and signal devices.
- 19 (xiii) Mowing roadside.
- 20 (xiv) Control of roadside brush and vegetation.
- 21 (xv) Cleaning roadside.
- 22 (xvi) Repairing lighting.
- 23 (xvii) Grading.
- 24 (o) "Preventive maintenance" means a planned strategy of
25 cost-effective treatments to an existing roadway system and its
26 appurtenances that preserve assets by retarding deterioration and
27 maintaining functional condition without significantly increasing

1 structural capacity. Preventive maintenance includes, but is not
2 limited to, 1 or more of the following:

- 3 (i) Pavement crack sealing.
- 4 (ii) Micro surfacing.
- 5 (iii) Chip sealing.
- 6 (iv) Concrete joint resealing.
- 7 (v) Concrete joint repair.
- 8 (vi) Filling shallow pavement cracks.
- 9 (vii) Patching concrete.
- 10 (viii) Shoulder resurfacing.
- 11 (ix) Concrete diamond grinding.
- 12 (x) Dowel bar retrofit.
- 13 (xi) Bituminous overlays of 1-1/2 inches or less in
14 thickness.
- 15 (xii) Restoration of drainage.
- 16 (xiii) Bridge crack sealing.
- 17 (xiv) Bridge joint repair.
- 18 (xv) Bridge seismic retrofit.
- 19 (xvi) Bridge scour countermeasures.
- 20 (xvii) Bridge painting.
- 21 (xviii) Pollution prevention.
- 22 (xix) New treatments as they may be developed.
- 23 (p) "County road commission" means the board of county road
24 commissioners elected or appointed pursuant to section 6 of
25 chapter IV of 1909 PA 283, MCL 224.6, or, in the case of a
26 charter county with a population of 2,000,000 or more with an
27 elected county executive that does not have a board of county

1 road commissioners, the county executive for ministerial
2 functions and the county commission provided for in section
3 14(1)(d) of 1966 PA 293, MCL 45.514, for legislative functions.

4 (q) "Capital preventive treatments" means any preventive
5 maintenance category project on state trunk line highways that
6 qualifies under the department's capital preventive maintenance
7 program.

8 Sec. 10h. (1) By May 1 of each year, the state
9 transportation commission shall report to each member of the
10 legislature, the governor, and the auditor general its
11 recommendations for a transportation program which the state
12 transportation commission acts on under section 10e(10). The
13 report shall specify the following:

14 (a) The estimated amount of money in the comprehensive
15 transportation fund to be distributed in the following fiscal
16 year and the amount of money in the comprehensive transportation
17 fund to be distributed to each eligible authority, each intercity
18 carrier, each eligible governmental agency, and the state
19 transportation department; the estimated amount of money in the
20 state trunk line fund to be distributed to the state
21 transportation department for the preservation, as defined in
22 section 10c, of state trunk line highways; and the estimated
23 amount of money in the state trunk line fund to be distributed to
24 the state transportation department for all other purposes in the
25 following fiscal year. The report shall further subdivide the
26 money to be distributed to each eligible authority, each
27 intercity carrier, each eligible governmental agency, the state

1 transportation department from the comprehensive transportation
2 fund, the state transportation department from the state trunk
3 line fund for the preservation of state trunk line highways, and
4 the state transportation department from the state trunk line
5 fund for all other purposes specifying how much of that money is
6 proposed to be expended for either capital acquisitions,
7 including demonstration projects, or for operating expenses,
8 including demonstration projects.

9 (b) An account of all expenditures of funds distributed from
10 the state trunk line fund and the comprehensive transportation
11 fund to the state transportation department, eligible
12 authorities, intercity carriers, and eligible governmental
13 agencies, and the progress made by the state transportation
14 department, eligible authorities, intercity carriers, and
15 eligible governmental agencies in carrying out the approved
16 transportation programs in the preceding fiscal year through the
17 use of those funds. The progress report shall be made based on
18 information supplied to the state transportation department on
19 forms authorized by the federal department of transportation.
20 For those eligible authorities, intercity carriers, and eligible
21 governmental agencies not receiving federal funds pursuant to the
22 urban mass transportation act of 1964, Public Law 88-365, the
23 progress report shall be made upon forms supplied by the state
24 transportation department. The progress report shall also
25 contain the whole amount of the expenses of the state
26 transportation department for the fiscal year.

27 (c) Each project certified to be eligible for a multiyear

1 funding commitment.

2 (d) The status of all multiyear funding commitments.

3 (e) An account of the state transportation department's
4 compliance in the preceding year with the requirements of section
5 11(2) and (3). The report shall also specify the justification
6 for a waiver of the requirement of section 11(3), if that
7 requirement was waived.

8 (2) The financial transactions and accounts related to
9 distributions made from the comprehensive transportation fund to
10 an eligible authority ~~created under the metropolitan~~
11 ~~transportation authorities act of 1967, 1967 PA 204, MCL 124.401~~
12 ~~to 124.426,~~ shall be audited pursuant to ~~that act~~ **the**
13 **metropolitan transportation authorities act of 1967, 1967 PA 204,**
14 **MCL 124.401 to 124.426, or the Detroit area regional**
15 **transportation authority act, whichever applies.** The cost of the
16 audit shall be paid by the eligible authority. The financial
17 transactions and accounts related to distributions made from the
18 fund to an eligible governmental agency, other than a county,
19 shall be audited in accordance with the uniform budgeting and
20 accounting act, 1968 PA 2, MCL 141.421 to 141.440a. The
21 financial transactions and accounts related to distributions made
22 from the fund to a county which is an eligible governmental
23 agency shall be audited in accordance with 1919 PA 71, MCL 21.41
24 to 21.55. The financial transactions and accounts relative to
25 distributions made to an intercity carrier shall be audited by an
26 independent certified public accountant in accordance with
27 instructions promulgated by the department of treasury. A copy

1 of the complete audit report and management letter shall be
 2 submitted by the eligible authority, intercity carrier, or
 3 eligible governmental agency to the state transportation
 4 department. The department of treasury shall develop minimum
 5 audit standards and requirements.

6 (3) There is hereby established a task force composed of the
 7 Michigan public transit association, the Michigan motorbus
 8 association, the Michigan rail users and supporters association,
 9 the Michigan railroad association, a representative of a
 10 state-owned or leased short line railroad, and the office of
 11 auditor general or a certified public accountant appointed by the
 12 auditor general, to assist the department in the development of
 13 the progress report requirements outlined in subsection (1)(b).

14 Sec. 10/. (1) For each 12-month period beginning October 1,
 15 1987, and each 12-month period thereafter, \$2,000,000.00 shall be
 16 returned from the distribution under section 10e(4)(a) by each
 17 ~~multicounty~~ **eligible** authority ~~created under the metropolitan~~
 18 ~~transportation authorities act of 1967, Act No. 204 of the~~
 19 ~~Public Acts of 1967, being sections 124.401 to 124.425 of the~~
 20 ~~Michigan Compiled Laws,~~ **organized under the Detroit area**
 21 **regional transportation authority act** in terms of a credit to
 22 ~~those~~ cities, villages, and townships within ~~each~~
 23 ~~transportation district of the authority, created under section~~
 24 ~~16a of Act No. 204 of the Public Acts of 1967, being section~~
 25 ~~124.416a of the Michigan Compiled Laws, which~~ **receiving or**
 26 **eligible to receive credits as of October 1, 2001 that** apply to
 27 the authority for the credit in accordance with procedures and

1 standards established by the authority, except as provided by
2 subsections (2) and (3). The return of money in terms of a
3 credit shall be based upon the population of each city, village,
4 or township within the authority.

5 (2) For each 12-month period described in subsection (1), a
6 city, village, or township described in subsection (1) may apply
7 to the authority to use its credit for public transportation
8 purposes within the authority's jurisdiction. However, the money
9 returned in terms of a credit to any city, village, or township
10 ~~which~~ **that** provides public transportation service for that
11 city, village, or township shall be used exclusively toward
12 reducing the operating deficit of that service. ~~Moreover, any~~
13 **Any** service provided by the city, township, or village utilizing
14 the credit received ~~pursuant to~~ **under** this section shall be
15 operated by the authority returning the money in terms of a
16 credit on a contractual basis with each city, village, or
17 township or with a combination of cities, villages, and
18 townships. If a city, township, or village has not applied to
19 the authority to utilize its credit pursuant to this subsection
20 by the last day of the 12-month period, that municipality's share
21 of the money credited pursuant to subsection (1) shall be used by
22 the authority for an expenditure within the county within which
23 the city, village, or township lies.

24 (3) A city, village, or township ~~which~~ **that** has applied
25 for and received approval from the authority for use of its
26 credit pursuant to subsection (2) shall have 1 year after the end
27 of the period in which the application was made to actually

1 expend that credit. A credit not actually expended by the city,
2 village, or township by the last day of the year after the end of
3 the period in which the application was made shall be used by the
4 authority for an expenditure within the county within which the
5 city, village, or township lies.

6 (4) Notwithstanding any other section of this or any other
7 act, each authority authorized by this section to return money in
8 terms of a credit shall have the final decision as to what
9 constitutes a proper expenditure, a public transportation
10 service, or a public transportation purpose under subsections (2)
11 and (3).

12 (5) The expenditure of the amounts required to be expended
13 under subsections (2) and (3) shall not be conditioned on an
14 expenditure by a county in which the expenditure is required to
15 be expended.

16 (6) ~~The~~ An authority shall retain ~~the~~ its ability to
17 coordinate services between contracting cities, villages, and
18 townships or groups of cities, villages, or townships.

19 (7) As used in this section, "operating deficit" means the
20 operating cost of a public transportation service less the
21 revenues generated by the service.

22 Sec. 10n. (1) Funds from the comprehensive transportation
23 fund may be distributed to a trustee, or to the Michigan
24 municipal bond authority as created under the shared credit
25 rating act, 1985 PA 227, MCL 141.1051 to 141.1076, that is
26 authorized to receive the funds under a borrowing resolution
27 adopted by an eligible authority. The issuance of the notes of

1 an eligible authority in anticipation of payment of proceeds from
2 the comprehensive transportation fund shall be authorized by a
3 borrowing resolution of the eligible authority under the
4 metropolitan transportation authorities act of 1967, 1967 PA 204,
5 MCL 124.401 to 124.426, **or the Detroit area regional**
6 **transportation authority act.** The issuance of the notes under
7 this section is not subject to the revised municipal finance act,
8 2001 PA 34, MCL 141.2101 to 141.2821, and shall be subject to the
9 prior approval of the state transportation commission. Failure
10 of the commission to take action within 35 days after receipt of
11 notification from the eligible authority of intent to issue the
12 notes, constitutes approval by the state transportation
13 commission. The eligible authority may only issue the notes in
14 anticipation of funds to be received during its current fiscal
15 year at any time before the eligible authority's receipt of the
16 funds from the comprehensive transportation fund. The principal
17 amount of notes for which the funds to be received from the
18 comprehensive transportation fund are pledged shall not exceed
19 85% of the amount remaining to be received by the eligible
20 authority from the comprehensive transportation fund in the
21 current fiscal year. The pledge of 100% of the funds the
22 eligible authority expects to receive from the comprehensive
23 transportation fund shall be secured by a direct transfer of the
24 pledge funds from the comprehensive transportation fund to the
25 trustee or the Michigan municipal bond authority that is
26 authorized to receive the funds by the borrowing resolution
27 adopted by the eligible authority. The notes of the eligible

1 authority shall not be in any way a debt or a liability of the
2 state and shall not create or constitute any indebtedness,
3 liability, or obligations of the state or be or constitute a
4 pledge of the full faith and credit of the state. Each note
5 shall contain on its face a statement to the effect that the
6 eligible authority is obligated to pay the principal of and the
7 interest on the note only from funds of or due to the eligible
8 authority and that this state is not obligated to pay that
9 principal or interest and that neither the faith in credit nor
10 the taxing power of this state is pledged to the payment of the
11 principal of or the interest on the note. The notes shall mature
12 not more than 13 months from the date of issuance, shall bear
13 interest at a fixed or variable rate or rates of interest per
14 annum, and, in addition to other security required by this
15 section, may be secured by letter or line of credit issued by a
16 financial institution or as provided in the borrowing
17 resolution.

18 (2) The issuance of notes under this section is subject to
19 the agency financing reporting act, **2002 PA 470, MCL 129.171 to**
20 **129.177.**

21 Enacting section 1. This amendatory act takes effect
22 October 1, 2003.

23 Enacting section 2. This amendatory act does not take
24 effect unless Senate Bill No. 169 _____
25 of the 92nd Legislature is enacted into
26 law.