

Act No. 9
Public Acts of 2004
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STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004

Introduced by Senators Switalski, Olshove, Patterson, Bernero, Emerson, Goschka and Garcia

ENROLLED SENATE BILL No. 334

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 acts and parts of acts," by amending section 13 (MCL 247.663), as amended by 1999 PA 54.

The People of the State of Michigan enact:

Sec. 13. (1) The amount distributed to cities and villages shall be returned to the treasurers of the cities and villages in the manner, for the purposes, and under the terms and conditions specified in this section. As used in this section, "population" means the population according to the most recent statewide federal census as certified at the beginning of the state fiscal year, except that, if a municipality has been newly incorporated since completion of the census, the population of the municipality for purposes of the distribution of funds before completion of the next census shall be the population as determined by special federal census, if there is a special federal census, and if not, by the population as determined by the official census in connection with the incorporation, if there is such a census and, if not, by a special state census to be taken at the expense of the municipality by the secretary of state pursuant to section 6 of the home

rule city act, 1909 PA 279, MCL 117.6. The amount received by the newly incorporated municipality shall be in place of any other direct distribution of funds from the Michigan transportation fund. The population of the newly incorporated municipality as determined under this section shall be added to the total population of all incorporated cities and villages in the state in computing the amounts to be returned under this section to each municipality in the state. Major street mileage, local street mileage, and equivalent major mileage, if applicable, shall be determined by the state transportation department before the next month for which distribution is made following the effective date of incorporation of a newly incorporated municipality.

(2) From the amount available for distribution to cities and villages during each December, an amount equal to 0.7% of the total amount returned to all cities and villages under subsections (3) and (4) during the previous calendar year shall be withheld. The amount withheld shall be used to partially reimburse those cities and villages located in those counties that are eligible for snow removal funds pursuant to section 12a and that have costs for winter maintenance on major and local streets that are greater than the statewide average. The distributions shall be made annually during February and shall be calculated separately for the major and local street systems but may be paid in a combined warrant. The distribution to a city or village shall be equal to 1/2 of its winter maintenance expenditures after deducting the product of its total earnings under subsections (3) and (4) multiplied by 2 times the average municipal winter maintenance factor. Winter maintenance expenditures shall be determined from the street financial reports for the most current fiscal years ending before July 1. A city or village that does not submit a street financial report for the fiscal year ending before July 1 by the subsequent December 31 shall be ineligible for the winter maintenance payment that is to be based on that street financial report. The average municipal winter maintenance factor shall be determined annually by the state transportation department by dividing the total expenditures of all cities and villages on winter maintenance of streets and highways by the total amount earned by all cities and villages under subsections (3) and (4) during the 12 months. If the sum of the distributions to be made under this subsection exceeds the amount withheld, the distributions to each eligible city and village shall be reduced proportionately. If the sum is less than the amount withheld, the balance shall be added to the amount available for distribution under subsections (3) and (4) during the next month. The distributions shall be for use on the major and local street systems respectively and shall be subject to the same provisions as funds returned under subsections (3) and (4).

(3) Seventy-five percent of the remaining amount to be returned to the cities and villages, after deducting the amounts withheld pursuant to subsection (2), shall be returned 60% in the same proportion that the population of each bears to the total population of all cities and villages, and 40% in the same proportion that the equivalent major mileage in each bears to the total equivalent major mileage in all cities and villages. As used in this section, "equivalent major mileage" means the sum of 2 times the state trunk line mileage certified by the state transportation department as of March 31 of each year, as being within the boundaries of each city and village having a population of 25,000 or more, plus the major street mileage in each city and village, multiplied by the following factor:

- 1.0 for cities and villages of 2,000 or less population;
- 1.1 for cities and villages from 2,001 to 10,000 population;
- 1.2 for cities and villages from 10,001 to 20,000 population;
- 1.3 for cities and villages from 20,001 to 30,000 population;
- 1.4 for cities and villages from 30,001 to 40,000 population;
- 1.5 for cities and villages from 40,001 to 50,000 population;
- 1.6 for cities and villages from 50,001 to 65,000 population;
- 1.7 for cities and villages from 65,001 to 80,000 population;
- 1.8 for cities and villages from 80,001 to 95,000 population;
- 1.9 for cities and villages from 95,001 to 160,000 population;
- 2.0 for cities and villages from 160,001 to 320,000 population;

and for cities over 320,000 population, by a factor of 2.1 increased successively by 0.1 for each 160,000 population increment over 320,000. The amount returned under this subsection shall be used by each city and village for the following purposes in the following order of priority:

(a) For the payment of contributions required to be made by a city or village under the provisions of contracts previously entered into under 1941 PA 205, MCL 252.51 to 252.64, which contributions have been previously pledged for the payment of the principal and interest on bonds issued under that act; or for the payment of the principal and interest upon bonds issued by a city or village pursuant to 1952 PA 175, MCL 247.701 to 247.707.

(b) Payment of obligations of the city or village on highway projects undertaken by the city or village jointly with the state transportation department.

(c) For the payment of principal and interest upon loans received pursuant to section 11(7), to the extent other funds have not been made available for that payment.

(d) For the preservation, construction, acquisition, and extension of the major street system as defined by this act including the acquisition of a necessary right of way for the system, work incidental to the system, and an appurtenant roadside park or motor parkway, of the city or village and for the payment of the principal and interest on that portion of the city's or village's general obligation bonds which are attributable to the construction or reconstruction of the city's or village's major street system. Not more than 5% per year of the funds returned to a city or village by this

subsection shall be expended for the preservation or acquisition of appurtenant roadside parks and motor parkways. Surplus funds may be expended for the development, construction, or repair of off-street parking facilities, and the construction or repair of street lighting, and transfer to the local street system under subsection (6).

(4) The remaining amount to be returned to incorporated cities and villages shall be expended in each city or village for the preservation, construction, acquisition, and extension of the local street system of the city or village, as defined by this act, including the acquisition of a necessary right of way for the system, work incidental to the system, and subject to subsection (5), for the payment of the principal and interest on that portion of the city's or village's general obligation bonds which are attributable to the construction or reconstruction of the city's or village's local street system. The amount returned under this subsection shall be returned to the cities and villages 60% in the same proportion that the population of each bears to the total population of all incorporated cities and villages in the state, and 40% in the same proportion that the total mileage of the local street system of each bears to the total mileage in the local street systems of all cities and villages of the state. The payment of the principal and interest upon bonds issued by a city or village pursuant to 1952 PA 175, MCL 247.701 to 247.707, and after that payment, the payment of debt service on loans received under section 11(7), shall have priority in the expenditure of money returned under this subsection.

(5) Money distributed to each city and village for the maintenance and preservation of its local street system under this act represents the total responsibility of the state for local street system support. Funds distributed from the Michigan transportation fund shall not be expended for construction purposes on city and village local streets except to the extent matched from local revenues including other money returned to a city or village by the state under the state constitution of 1963 and statutes of the state, from funds that can be raised by taxation in cities and villages for street purposes within the limitations of the state constitution of 1963 and statutes of the state, from special assessments, or from any other source. This subsection does not apply to section 11b.

(6) Except as provided in subsection (12), money returned under this section to a city or village shall be expended on the major and local street systems of that city or village. However, the first priority shall be the major street system. Money returned for expenditure on the major street system shall be expended in the priority order provided in subsection (3) except that surplus funds may be transferred for preservation of the local street system. Major street funds transferred for use on the local street system shall not be used for construction but may be used for preservation as defined in section 10c. A city or village shall not transfer more than 25% of its annual major street funding for the local street system unless it has adopted and is following an asset management process for its major and local street systems and adopts a resolution with a copy to the department setting forth all of the following:

- (a) A list of the major streets in that city or village.
- (b) A statement that the city or village is adequately maintaining its major streets.
- (c) The dollar amount of the transfer.
- (d) The local streets to be funded with the transfer.
- (e) A statement that the city or village is following an asset management process for its major and local street systems.

(7) Not more than 10% per year of all of the funds returned to a city or village from any source for the purposes of this section may be expended for administrative expenses. As used in this subsection, "administrative expenses" means those expenses that are not assigned including, but not limited to, specific road construction or maintenance projects and are often referred to as general or supportive services. Administrative expenses shall not include net equipment expense, net capital outlay, debt service principal and interest, and payments to other state or local offices that are assigned, but not limited to, specific road construction projects or maintenance activities. A city or village which in a year expends more than 10% for administrative expenses shall be subject to section 14(5).

(8) In each city and village to which funds are returned under this section, the responsibility for street preservation and the development, construction, or repair of off-street parking facilities and construction or repair of street lighting shall be coordinated by a single administrator to be designated by the governing body who shall be responsible for and shall represent the municipality in transactions with the state transportation department pursuant to this act.

(9) Cities and villages may provide for consolidated street administration. A city or a village may enter into an agreement with other cities or villages, the county road commission, or with the state transportation commission for the performance of street or highway work on a road or street within the limits of the city or village or adjacent to the city or village. The agreement may provide for the performance by any of the contracting parties of the work contemplated by the contracts including services and acquisition of rights of way, by purchase or condemnation by any of the contracting parties in its own name. The agreement may provide for joint participation in the costs if appropriate.

(10) Interest earned on funds returned to a city or a village for purposes provided in this section shall be credited to the appropriate street fund.

(11) In addition to the financial compliance audits required by law, the department of treasury shall conduct performance audits and make investigations of the disposition of all state funds received by cities and villages for transportation purposes to determine compliance with the terms and conditions of this act. Performance audits shall be conducted according to government auditing standards issued by the United States general accounting office. The

department of treasury shall provide notice to cities and villages of the standards to be used for audits under this subsection prior to the fiscal year in which the audit is conducted. The department shall notify cities and villages of any subsequent changes to the standards. Cities and villages shall make available to the department of treasury the pertinent records for the audit.

(12) Effective January 1, 2009, money returned to a city or village for expenditure on the major street system may not be transferred or expended for use on the local street system except to the extent matched by local revenues expended by the city or village on the major street system or state trunk line highways. For purposes of this subsection, local revenue means revenue other than Michigan transportation fund revenue and includes, but is not limited to, general fund revenue and special assessments.

(13) On or before October 1, 2008, the department shall prepare a report listing by city and village, and in total, the following information:

(a) Amounts transferred between major street fund and local street fund.

(b) Amounts of local revenue as defined in subsection (12) expended on the major street system. The report shall include fiscal years from January 1, 2002 through June 30, 2008. The report shall analyze the extent to which the amendatory act that added this subsection affected city and village transfers from major street funds to local street funds, and the amount of local revenue expended on city or village major streets and state trunk lines. The report shall be submitted to the house and senate appropriations committees and to the house and senate fiscal agencies.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved _____

Governor