

HOUSE BILL No. 5070

July 27, 2005, Introduced by Reps. Kolb and Donigan and referred to the Committee on Transportation.

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,

local 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), section 10c as amended by 2005 PA 45, section 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 future;
5 the area within the jurisdiction of an eligible authority; or for
6 the purpose of receiving funds for public transportation, a
7 contiguous developed area having a population of less than 50,000
8 population that has an urban public transportation program approved
9 by the state transportation department and for which the state
10 transportation commission determines that public transportation
11 services should reasonably be provided presently or in the future.

12 (b) "Eligible authority" means an authority organized
13 ~~pursuant to~~ **UNDER** the metropolitan transportation authorities act

1 of 1967, 1967 PA 204, MCL 124.401 to 124.426, **OR AN AUTHORITY**
2 **ORGANIZED OR CONTINUED UNDER THE DETROIT AREA REGIONAL**
3 **TRANSPORTATION AUTHORITY ACT.**

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

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

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

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

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

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

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

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

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

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

22 (l) "Preservation" means an activity undertaken to preserve the
23 integrity of the existing roadway system. Preservation does not
24 include new construction of highways, roads, streets, or bridges, a
25 project that increases the capacity of a highway facility to
26 accommodate that part of traffic having neither an origin nor
27 destination within the local area, widening of a lane width or

1 more, or adding turn lanes of more than 1/2 mile in length.
2 Preservation includes, but is not limited to, 1 or more of the
3 following:

4 (i) Maintenance.

5 (ii) Capital preventive treatments.

6 (iii) Safety projects.

7 (iv) Reconstruction.

8 (v) Resurfacing.

9 (vi) Restoration.

10 (vii) Rehabilitation.

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

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

13 (x) Modernizing intersections.

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

15 (xii) Installing traffic signs in new locations, installing
16 signal devices in new locations, and replacing existing signal
17 devices.

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

1 (n) "Routine maintenance" means actions performed on a regular
2 or controllable basis or in response to uncontrollable events upon
3 a highway, road, street, or bridge. Routine maintenance includes,
4 but is not limited to, 1 or more of the 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 or operation of traffic signs and signal systems.

12 (viii) Emergency environmental cleanup.

13 (ix) Emergency repairs.

14 (x) Emergency management of road closures that result from
15 uncontrollable events.

16 (xi) Cleaning streets and associated drainage.

17 (xii) Mowing roadside.

18 (xiii) Control of roadside brush and vegetation.

19 (xiv) Cleaning roadside.

20 (xv) Repairing lighting.

21 (xvi) Grading.

22 (o) "Preventive maintenance" means a planned strategy of cost-
23 effective treatments to an existing roadway system and its
24 appurtenances that preserve assets by retarding deterioration and
25 maintaining functional condition without significantly increasing
26 structural capacity. Preventive maintenance includes, but is not
27 limited to, 1 or more of the following:

- 1 (i) Pavement crack sealing.
- 2 (ii) Micro surfacing.
- 3 (iii) Chip sealing.
- 4 (iv) Concrete joint resealing.
- 5 (v) Concrete joint repair.
- 6 (vi) Filling shallow pavement cracks.
- 7 (vii) Patching concrete.
- 8 (viii) Shoulder resurfacing.
- 9 (ix) Concrete diamond grinding.
- 10 (x) Dowel bar retrofit.
- 11 (xi) Bituminous overlays of 1-1/2 inches or less in thickness.
- 12 (xii) Restoration of drainage.
- 13 (xiii) Bridge crack sealing.
- 14 (xiv) Bridge joint repair.
- 15 (xv) Bridge seismic retrofit.
- 16 (xvi) Bridge scour countermeasures.
- 17 (xvii) Bridge painting.
- 18 (xviii) Pollution prevention.
- 19 (xix) New treatments as they may be developed.
- 20 (p) "County road commission" means the board of county road
21 commissioners elected or appointed pursuant to section 6 of chapter
22 IV of 1909 PA 283, MCL 224.6, or, in the case of a charter county
23 with a population of 2,000,000 or more with an elected county
24 executive that does not have a board of county road commissioners,
25 the county executive for ministerial functions and the county
26 commission provided for in section 14(1)(d) of 1966 PA 293, MCL
27 45.514, for legislative functions.

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

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

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

1 trunk line fund for all other purposes specifying how much of that
2 money is proposed to be expended for either capital acquisitions,
3 including demonstration projects, or for operating expenses,
4 including demonstration projects.

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

22 (c) Each project certified to be eligible for a multiyear
23 funding commitment.

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

25 (e) An account of the state transportation department's
26 compliance in the preceding year with the requirements of section
27 11(2) and (3). The report shall also specify the justification for

1 a waiver of the requirement of section 11(3), if that requirement
2 was waived.

3 (2) The financial transactions and accounts related to
4 distributions made from the comprehensive transportation fund to an
5 eligible authority ~~created under the metropolitan transportation~~
6 ~~authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426,~~
7 shall be audited pursuant to ~~that act~~ **THE METROPOLITAN**
8 **TRANSPORTATION AUTHORITIES ACT OF 1967, 1967 PA 204, MCL 124.401 TO**
9 **124.426, OR THE DETROIT AREA REGIONAL TRANSPORTATION AUTHORITY ACT,**
10 **WHICHEVER APPLIES.** The cost of the audit shall be paid by the
11 eligible authority. The financial transactions and accounts related
12 to distributions made from the fund to an eligible governmental
13 agency, other than a county, shall be audited in accordance with
14 the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to
15 141.440a. The financial transactions and accounts related to
16 distributions made from the fund to a county which is an eligible
17 governmental agency shall be audited in accordance with 1919 PA 71,
18 MCL 21.41 to 21.55. The financial transactions and accounts
19 relative to distributions made to an intercity carrier shall be
20 audited by an independent certified public accountant in accordance
21 with instructions promulgated by the department of treasury. A copy
22 of the complete audit report and management letter shall be
23 submitted by the eligible authority, intercity carrier, or eligible
24 governmental agency to the state transportation department. The
25 department of treasury shall develop minimum audit standards and
26 requirements.

27 (3) There is hereby established a task force composed of the

1 Michigan public transit association, the Michigan motorbus
2 association, the Michigan rail users and supporters association,
3 the Michigan railroad association, a representative of a state-
4 owned or leased short line railroad, and the office of auditor
5 general or a certified public accountant appointed by the auditor
6 general, to assist the department in the development of the
7 progress report requirements outlined in subsection (1)(b).

8 Sec. 10/. (1) For each 12-month period beginning October 1,
9 1987, and each 12-month period thereafter, \$2,000,000.00 shall be
10 returned from the distribution under section 10e(4)(a) by each
11 ~~multicounty~~ **ELIGIBLE** authority ~~created under the metropolitan~~
12 ~~transportation authorities act of 1967, Act No. 204 of the Public~~
13 ~~Acts of 1967, being sections 124.401 to 124.425 of the Michigan~~
14 ~~Compiled Laws,~~ **ORGANIZED OR CONTINUED UNDER THE DETROIT AREA**
15 **REGIONAL TRANSPORTATION AUTHORITY ACT** in terms of a credit to those
16 cities, villages, and townships within ~~each transportation~~
17 ~~district of the authority created under section 16a of Act No.~~
18 ~~204 of the Public Acts of 1967, being section 124.416a of the~~
19 ~~Michigan Compiled Laws, which~~ **RECEIVING CREDITS UNDER THIS SECTION**
20 **OR ELIGIBLE TO RECEIVE CREDITS AS OF OCTOBER 1, 2001 THAT** apply to
21 the authority for the credit in accordance with procedures and
22 standards established by the authority, except as provided by
23 subsections (2) and (3). The return of money in terms of a credit
24 shall be based upon the population of each city, village, or
25 township within the authority.

26 (2) For each 12-month period described in subsection (1), a
27 city, village, or township described in subsection (1) may apply to

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

17 (3) A city, village, or township ~~which~~ **THAT** has applied for
18 and received approval from the authority for use of its credit
19 pursuant to subsection (2) shall have 1 year after the end of the
20 period in which the application was made to actually expend that
21 credit. A credit not actually expended by the city, village, or
22 township by the last day of the year after the end of the period in
23 which the application was made shall be used by the authority for
24 an expenditure within the county within which the city, village, or
25 township lies.

26 (4) Notwithstanding any other section of this or any other
27 act, each authority authorized by this section to return money in

1 terms of a credit shall have the final decision as to what
2 constitutes a proper expenditure, a public transportation service,
3 or a public transportation purpose under subsections (2) and (3).

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

8 (6) ~~The~~ **AN** authority shall retain the ability to coordinate
9 services between contracting cities, villages, and townships or
10 groups of cities, villages, or townships.

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

14 Sec. 10n. (1) Funds from the comprehensive transportation fund
15 may be distributed to a trustee, or to the Michigan municipal bond
16 authority as created under the shared credit rating act, 1985 PA
17 227, MCL 141.1051 to 141.1076, that is authorized to receive the
18 funds under a borrowing resolution adopted by an eligible
19 authority. The issuance of the notes of an eligible authority in
20 anticipation of payment of proceeds from the comprehensive
21 transportation fund shall be authorized by a borrowing resolution
22 of the eligible authority under the metropolitan transportation
23 authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426, **OR**
24 **THE DETROIT AREA REGIONAL TRANSPORTATION AUTHORITY ACT**. The
25 issuance of the notes under this section is not subject to the
26 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
27 141.2821, and shall be subject to the prior approval of the state

1 transportation commission. Failure of the commission to take action
2 within 35 days after receipt of notification from the eligible
3 authority of intent to issue the notes, constitutes approval by the
4 state transportation commission. The eligible authority may only
5 issue the notes in anticipation of funds to be received during its
6 current fiscal year at any time before the eligible authority's
7 receipt of the funds from the comprehensive transportation fund.
8 The principal amount of notes for which the funds to be received
9 from the comprehensive transportation fund are pledged shall not
10 exceed 85% of the amount remaining to be received by the eligible
11 authority from the comprehensive transportation fund in the current
12 fiscal year. The pledge of 100% of the funds the eligible authority
13 expects to receive from the comprehensive transportation fund shall
14 be secured by a direct transfer of the pledge funds from the
15 comprehensive transportation fund to the trustee or the Michigan
16 municipal bond authority that is authorized to receive the funds by
17 the borrowing resolution adopted by the eligible authority. The
18 notes of the eligible authority shall not be in any way a debt or a
19 liability of the state and shall not create or constitute any
20 indebtedness, liability, or obligations of the state or be or
21 constitute a pledge of the full faith and credit of the state. Each
22 note shall contain on its face a statement to the effect that the
23 eligible authority is obligated to pay the principal of and the
24 interest on the note only from funds of or due to the eligible
25 authority and that this state is not obligated to pay that
26 principal or interest and that neither the faith in credit nor the
27 taxing power of this state is pledged to the payment of the

1 principal of or the interest on the note. The notes shall mature
2 not more than 13 months from the date of issuance, shall bear
3 interest at a fixed or variable rate or rates of interest per
4 annum, and, in addition to other security required by this section,
5 may be secured by letter or line of credit issued by a financial
6 institution or as provided in the borrowing resolution.

7 (2) The issuance of notes under this section is subject to the
8 agency financing reporting act, **2002 PA 470, MCL 129.171 TO**
9 **129.177.**

10 Enacting section 1. This amendatory act takes effect October
11 1, 2006.

12 Enacting section 2. This amendatory act does not take effect
13 unless Senate Bill No.____ or House Bill No. 5068(request no.
14 04066'05) of the 93rd Legislature is enacted into law.