

SENATE BILL No. 1324

May 15, 2008, Introduced by Senators VAN WOERKOM, ALLEN, GILBERT and CROPSEY 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 section 10e (MCL 247.660e), as amended by 1998 PA 87.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

11 (3) After making or setting aside payments required by
12 subsection (2), the second priority of the comprehensive
13 transportation fund is the payment of the department's cost in
14 administering the comprehensive transportation fund. The amount to
15 be expended pursuant to this subsection shall not exceed the costs
16 appropriated for the administration of the fund in the fiscal year
17 ending September 30, 1987, as adjusted annually on October 1, by

1 the change for the preceding 12 months in the Detroit consumer
2 price index for urban wage earners and shall be appropriated
3 annually by the legislature.

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

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

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

20 (ii) For the fiscal year ending September 30, 1998, and each
21 fiscal year thereafter, each eligible authority and eligible
22 governmental agency which provides public transportation services
23 in urbanized areas with a Michigan population less than or equal to
24 100,000 and nonurbanized areas under ~~Public Law 103-272, 49 U.S.C.~~
25 **USC** 5311, shall receive a grant of up to 60% of their eligible
26 operating expenses as defined by the state transportation
27 department. For purposes of receiving a grant under this

1 subparagraph in nonurbanized areas, eligible costs of services
2 provided by water vehicle shall be reimbursed at not less than 50%
3 of the portion of the costs not eligible for reimbursement by the
4 federal government.

5 (iii) Funds shall not be distributed to an eligible authority or
6 eligible governmental agency under this act unless the eligible
7 authority or eligible governmental agency provides or agrees to
8 provide preferential fares for public transportation services to
9 persons 65 years of age or over or persons with disabilities riding
10 in off peak periods of service. As used in this section, "person
11 with disabilities" means an individual with a disability as that
12 term is defined in 61 ~~F.R.P.~~**FRP** 56424 (November 1, 1996) and 49
13 ~~C.F.R.~~**CFR** part 27. The preferential fares shall not be higher than
14 50% of the regular 1-way single fare.

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

19 (v) Notwithstanding any other provision of this subsection,
20 for the fiscal year ending September 30, 1998, each eligible
21 authority and eligible governmental agency shall receive a
22 distribution from the comprehensive transportation fund not less
23 than the distribution received for eligible operating expenses for
24 the fiscal year ending September 30, 1997. Beginning with the
25 fiscal year ending September 30, 1998 and each fiscal year
26 thereafter, each eligible authority and eligible governmental
27 agency shall receive a distribution from the comprehensive

1 transportation fund for eligible operating expenses not less than
2 the distribution received for the fiscal year ending September 30,
3 1997. As it relates to this subsection the ratio between
4 comprehensive transportation funds and local funds in the fiscal
5 year ending September 30, 1989 shall be maintained for all fiscal
6 years by the eligible authority and eligible governmental agency.
7 Reductions in this ratio shall require a proportionate reduction in
8 the comprehensive transportation funds provided for any fiscal
9 year.

10 (vi) Each eligible authority and eligible governmental agency
11 receiving comprehensive transportation funds shall prepare and
12 submit to the department a quarterly report of the progress made in
13 carrying out its local transportation program within 40 days after
14 the end of each fiscal year quarter. The progress report shall be
15 made on forms authorized by the United States department of
16 transportation under the provisions of the surface transportation
17 and uniform relocation assistance act of 1987, Public Law 100-17,
18 101 Stat. 132.

19 (vii) NO ELIGIBLE AUTHORITY OR ELIGIBLE GOVERNMENTAL AGENCY
20 SHALL RECEIVE PAYMENT FOR OPERATING GRANTS UNDER THIS ACT UNLESS
21 THE ELIGIBLE AUTHORITY OR ELIGIBLE GOVERNMENTAL AGENCY CAN
22 DEMONSTRATE THAT IT REQUIRED COMPETITIVE BIDDING WITH PRIVATE
23 SECTOR ENTITIES FOR SERVICE CONTRACTS AND CONTRACTS FOR
24 CONSTRUCTION AND OPERATION OF PUBLIC TRANSPORTATION FACILITIES. A
25 DEMONSTRATION OF COMPETITIVE BIDDING SHALL INCLUDE TIMELY PROVISION
26 BY THE AGENCY TO INTERESTED BIDDERS OF ADMINISTRATIVE AND OVERHEAD
27 COST INFORMATION FOR THE MOST RECENT AVAILABLE FISCAL YEAR BEFORE

1 **THE COMPETITIVE BIDDING DEADLINE.**

2 (viii) ~~(vii)~~—The department shall periodically adjust or
3 redistribute comprehensive transportation funds previously
4 distributed under this subdivision.

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

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

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

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

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

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

1 (ii) Local bus capital. For the fiscal year ending September
2 30, 1998 and each fiscal year thereafter, not less than
3 \$8,000,000.00 will be distributed for either matching federal funds
4 for local bus capital or 100% capital projects for eligible
5 authorities and eligible governmental agencies that are not
6 eligible to receive federal capital formula funds under section
7 5307 of the federal intermodal surface transportation efficiency
8 act, Public Law 102-240, or any successor act.

9 (iii) Local bus new services.

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

12 (v) Public transportation development.

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

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

19 (5) Eligible authorities and eligible governmental agencies
20 shall receive capital grants each fiscal year by the annual process
21 described in this section. Amounts received by an eligible
22 authority or eligible governmental agency pursuant to this
23 subsection shall be expended by that authority or agency solely for
24 capital projects which have been approved by the state
25 transportation commission. Any funds approved by distribution to an
26 eligible authority or eligible governmental agency pursuant to this
27 section which have not been encumbered by that agency or authority

1 for an approved capital project by the end of the following fiscal
2 year in which the funds were approved shall not be expended by the
3 authority or agency and be available for distribution from the
4 comprehensive transportation fund for the purposes described in
5 this section.

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

19 (7) On or before March 1 of each year, each intercity carrier,
20 eligible authority, and eligible governmental agency shall submit
21 to the department its local transportation program for the next
22 succeeding fiscal year. The format for each local transportation
23 program shall be as prescribed by the federal transportation
24 improvement program insofar as practical and shall include project
25 descriptions, funding sources, and justification for each line
26 item, and summary budgets based on distributions anticipated under
27 subsection (4). The program shall contain at a minimum the

1 contemplated routes, hours of service, estimated transit vehicle
2 miles, costs of public transportation services, and projected
3 capital improvements or projects as exclusively determined by the
4 eligible authority or eligible governmental agency. The costs of
5 service and capital improvements or projects shall be in sufficient
6 detail to permit the state transportation department to evaluate
7 and approve the annual public transportation program. Determination
8 of individual projects to be included in the local transportation
9 programs other than those provided in this subsection shall be made
10 by the governing body of the eligible authority or eligible
11 governmental agency.

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

23 (9) On or before April 1 of each year, the department shall
24 prepare and file with the commission the proposed state
25 transportation program for the next succeeding fiscal year. The
26 proposed state transportation program shall contain the local
27 transportation programs of each intercity carrier, eligible

1 authority and eligible governmental agency, the department
2 transportation program, and the programs for the expenditure of the
3 state trunk line fund as they may have been supplemented, amended,
4 or modified since their original filing. The state transportation
5 program shall include the estimated amount of money in the funds
6 described in this subsection by revenue source, project
7 justifications, project descriptions funding sources, and budget
8 summaries.

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

24 (11) By October 1, the department and each intercity carrier,
25 eligible authority, or eligible governmental agency shall enter
26 into a contractual agreement or standardized grant memorandum of
27 agreement, which may cover 1 or more projects to be made from this

1 section in the applicable fiscal year to the intercity carrier,
2 eligible authority, or eligible governmental agency from the
3 comprehensive transportation fund.

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

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

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

27 (15) All approved local bus new services initiated by eligible

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

6 (a) Startup 100%.

7 (b) First year 90%.

8 (c) Second year 80%.

9 (d) Third year 70%.

10 (e) Fourth year and each year thereafter, as determined by and
11 from funds provided under subsection (4)(a). The balance of
12 eligible operating expenses shall be met from local revenue sources
13 including farebox. The department shall pay up to 100% of eligible
14 capital expenses during the startup and first 3 years of service,
15 after the third year, the department shall participate in eligible
16 capital expenses in the same percentage as for other eligible
17 authorities and eligible governmental agencies. For the purposes of
18 this subsection, eligible operating and capital expenses means
19 those expenses determined by the department as applicable to
20 existing eligible authorities and eligible governmental agencies.
21 The department shall prioritize annually all requests for
22 comprehensive transportation funds to institute new services under
23 this subsection. First priority shall be given to eligible
24 authorities and eligible governmental agencies who have not
25 completed their first 3 years of service by October 1, 1998. New
26 services initiated by eligible authorities and eligible
27 governmental agencies under this subsection shall meet all of the

1 requirements of section 10.

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

17 (17) A vehicle purchased, leased, or rented after November 15,
18 1976, by an eligible authority or eligible governmental agency with
19 funds made available under this act, which funds were not already
20 committed under a contract in existence on November 15, 1976, shall
21 not be used to provide service on a fixed schedule and fixed route
22 for which a passenger fee is charged unless the vehicle is
23 accessible to a person using a wheelchair from a roadway level or
24 curb level, and has accommodations in which 1 or more wheelchairs
25 can be secured.

26 (18) A vehicle shall not be purchased, leased, or rented by an
27 eligible authority or eligible governmental agency after October 1,

1 1978, with funds made available under this act which vehicle is
2 used to provide demand actuated service unless the eligible
3 authority or eligible governmental agency has submitted a plan to
4 the state transportation department describing the service to be
5 provided by the demand actuated service to persons 65 years of age
6 or older and persons with disabilities within the applicable
7 service area and that plan has been approved by the department. The
8 department shall approve the plan as submitted or modified or shall
9 reject the plan within 60 days after the plan is submitted. A plan
10 which describes the service to be provided by the demand actuated
11 service shall not be approved by the department unless that plan
12 provides the following:

13 (a) That demand actuated service will be provided to persons
14 65 years of age or older and persons with disabilities residing in
15 the entire service area subject to the plan.

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

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

26 (d) That the eligible authority or eligible governmental
27 agency submitting the plan has established a local advisory council

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

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

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

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

24 (22) Notwithstanding any other provision of this section, if
25 the unreserved balance of the comprehensive transportation fund as
26 of September 30, 1997 is greater than \$50,000,000.00, then the
27 entire unreserved balance minus \$50,000,000.00 shall be

1 appropriated for the fiscal year ending September 30, 1998 only to
2 local bus transit authorities for discretionary capital
3 expenditures. These funds shall be distributed to individual
4 authorities in the same proportion provided for in the provisions
5 of section 10e(4)(a)(i) except that the costs of services provided
6 by water vehicle shall not be eligible for reimbursement.