

HOUSE BILL No. 4185

February 5, 2009, Introduced by Reps. Agema, McMillin, Crawford, Opsommer, Lund, Meltzer, Marleau, Haines, Meekhof, Knollenberg, Tyler, Moss, Ball, Kurtz, Daley, Calley, Haveman and Walsh 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 2008 PA 487.

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

1 ending September 30, 1987, as adjusted annually on October 1, by
2 the change for the preceding 12 months in the Detroit consumer
3 price index for urban wage earners and shall be appropriated
4 annually by the legislature.

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

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

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

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

1 grant under this subparagraph in nonurbanized areas, eligible costs
2 of services provided by water vehicle shall be reimbursed at not
3 less than 50% of the portion of the costs not eligible for
4 reimbursement by the 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 FRP 56424 (November 1, 1996) and 49 CFR part
13 27. The preferential fares shall not be higher than 50% of the
14 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 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) The department shall periodically adjust or redistribute
20 comprehensive transportation funds previously distributed under
21 this subdivision.

22 (viii) EXCEPT AS PROVIDED IN SUBSECTION (15), FOR EACH FISCAL
23 YEAR THAT BEGINS AFTER SEPTEMBER 30, 2009, THE DEPARTMENT SHALL
24 ASSURE THAT EACH ELIGIBLE AUTHORITY AND ELIGIBLE GOVERNMENTAL
25 AGENCY RECEIVING COMPREHENSIVE TRANSPORTATION FUNDS FOR ELIGIBLE
26 OPERATING EXPENSES IS RECEIVING AT LEAST 20% OF ELIGIBLE OPERATING
27 EXPENSES FROM FAREBOX REVENUE. EACH ELIGIBLE AUTHORITY AND ELIGIBLE

1 GOVERNMENTAL AGENCY RECEIVING COMPREHENSIVE TRANSPORTATION FUNDS
2 FOR ELIGIBLE OPERATING EXPENSES SHALL SUBMIT DOCUMENTATION TO THE
3 DEPARTMENT SUFFICIENT FOR THE DEPARTMENT TO MAKE THIS
4 DETERMINATION. THE DEPARTMENT SHALL REDUCE THE FUNDS RECEIVED BY
5 ELIGIBLE AUTHORITIES AND ELIGIBLE GOVERNMENTAL AGENCIES THAT DO NOT
6 MEET THIS REQUIREMENT BY THE AMOUNT THAT THE ELIGIBLE AUTHORITY AND
7 ELIGIBLE GOVERNMENTAL AGENCY WOULD HAVE RECEIVED FROM THE
8 DEPARTMENT IF THE REQUIREMENT OF THIS SUBSECTION HAD BEEN MET.

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

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

26 (i) The specialized services assistance program. The
27 specialized services assistance program shall be funded with not

1 less than \$3,600,100.00 from funds distributed under this
2 subdivision. Funds shall be distributed according to guidelines
3 developed by the department based upon the following
4 considerations:

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

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

1 the purchase of services as approved in the plan by the department.

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

5 (ii) Local bus capital. For the fiscal year ending September
6 30, 1998 and each fiscal year thereafter, not less than
7 \$8,000,000.00 will be distributed for either matching federal funds
8 for local bus capital or 100% capital projects for eligible
9 authorities and eligible governmental agencies that are not
10 eligible to receive federal capital formula funds under section
11 5307 of the federal intermodal surface transportation efficiency
12 act, Public Law 102-240, or any successor act.

13 (iii) Local bus new services.

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

16 (v) Public transportation development.

17 (vi) Other public transportation programs approved by the
18 commission.

19 (d) The unappropriated and unencumbered balance of the
20 comprehensive transportation fund lapses at the end of each fiscal
21 year and reverts to the comprehensive transportation fund for
22 appropriation in the following fiscal year.

23 (5) Eligible authorities and eligible governmental agencies
24 shall receive capital grants each fiscal year by the annual process
25 described in this section. Amounts received by an eligible
26 authority or eligible governmental agency pursuant to this
27 subsection shall be expended by that authority or agency solely for

1 capital projects which have been approved by the state
2 transportation commission. Any funds approved by distribution to an
3 eligible authority or eligible governmental agency pursuant to this
4 section which have not been encumbered by that agency or authority
5 for an approved capital project by the end of the following fiscal
6 year in which the funds were approved shall not be expended by the
7 authority or agency and be available for distribution from the
8 comprehensive transportation fund for the purposes described in
9 this section.

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

23 (7) On or before March 1 of each year, each intercity carrier,
24 eligible authority, and eligible governmental agency shall submit
25 to the department its local transportation program for the next
26 succeeding fiscal year. The format for each local transportation
27 program shall be as prescribed by the federal transportation

1 improvement program insofar as practical and shall include project
2 descriptions, funding sources, and justification for each line
3 item, and summary budgets based on distributions anticipated under
4 subsection (4). The program shall contain at a minimum the
5 contemplated routes, hours of service, estimated transit vehicle
6 miles, costs of public transportation services, and projected
7 capital improvements or projects as exclusively determined by the
8 eligible authority or eligible governmental agency. The costs of
9 service and capital improvements or projects shall be in sufficient
10 detail to permit the state transportation department to evaluate
11 and approve the annual public transportation program. Determination
12 of individual projects to be included in the local transportation
13 programs other than those provided in this subsection shall be made
14 by the governing body of the eligible authority or eligible
15 governmental agency.

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

27 (9) On or before April 1 of each year, the department shall

1 prepare and file with the commission the proposed state
2 transportation program for the next succeeding fiscal year. The
3 proposed state transportation program shall contain the local
4 transportation programs of each intercity carrier, eligible
5 authority and eligible governmental agency, the department
6 transportation program, and the programs for the expenditure of the
7 state trunk line fund as they may have been supplemented, amended,
8 or modified since their original filing. The state transportation
9 program shall include the estimated amount of money in the funds
10 described in this subsection by revenue source, project
11 justifications, project descriptions funding sources, and budget
12 summaries.

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

1 (11) By October 1, the department and each intercity carrier,
2 eligible authority, or eligible governmental agency shall enter
3 into a contractual agreement or standardized grant memorandum of
4 agreement, which may cover 1 or more projects to be made from this
5 section in the applicable fiscal year to the intercity carrier,
6 eligible authority, or eligible governmental agency from the
7 comprehensive transportation fund.

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

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

24 (14) Funds distributed by the department may pay 100% of the
25 portion of the cost not eligible for reimbursement by the federal
26 government for eligible capital projects authorized by the state
27 transportation commission using comprehensive transportation funds

1 or the proceeds of notes and bonds issued under section 18b.

2 Priority for funding obligation shall be given to capital projects
3 for which federal funds have been authorized.

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

10 (a) Startup 100%.

11 (b) First year 90%.

12 (c) Second year 80%.

13 (d) Third year 70%.

14 (e) Fourth year and each year thereafter, as determined by and
15 from funds provided under subsection (4)(a). The balance of
16 eligible operating expenses shall be met from local revenue sources
17 including farebox. The department shall pay up to 100% of eligible
18 capital expenses during the startup and first 3 years of service,
19 after the third year, the department shall participate in eligible
20 capital expenses in the same percentage as for other eligible
21 authorities and eligible governmental agencies. For the purposes of
22 this subsection, eligible operating and capital expenses means
23 those expenses determined by the department as applicable to
24 existing eligible authorities and eligible governmental agencies.
25 The department shall prioritize annually all requests for
26 comprehensive transportation funds to institute new services under
27 this subsection. First priority shall be given to eligible

1 authorities and eligible governmental agencies who have not
2 completed their first 3 years of service by October 1, 1998. New
3 services initiated by eligible authorities and eligible
4 governmental agencies under this subsection shall meet all of the
5 requirements of section 10.

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

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

1 curb level, and has accommodations in which 1 or more wheelchairs
2 can be secured.

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

17 (a) That demand actuated service will be provided to persons
18 65 years of age or older and persons with disabilities residing in
19 the entire service area subject to the plan.

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

24 (c) That the average time period required for demand actuated
25 service to persons 65 years of age or older and persons with
26 disabilities from the initiation of a service request to arrival at
27 the destination is equal to the average time period required for

1 demand actuated service provided to all other persons in the
2 service area subject to the plan.

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

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

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

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

1 (22) Notwithstanding any other provision of this section, for
2 each fiscal year that begins after September 30, 2009, the governor
3 and the state budget director shall include in the annual budget
4 submitted to the legislature for the ensuing fiscal period under
5 section 18 of article V of the state constitution of 1963 an
6 appropriation from a fund or funds other than the comprehensive
7 transportation fund to a street railway organized under the
8 nonprofit street railway act, 1867 PA 35, MCL 472.1 to 472.27, of a
9 sum equal to the difference between the annual operating expenses
10 of the street railway and revenue received by the street railway
11 during the same annual period, including, but not limited to, tax
12 increment revenues received by the street railway under section 23
13 of the nonprofit street railway act, 1867 PA 35, MCL 472.23. The
14 appropriation submitted in the budget under this section shall not
15 exceed 8% of the total private investment in the street railway as
16 determined by the department. A street railway is not an eligible
17 authority or eligible governmental agency for purposes of
18 subdivision (4)(a).