

HOUSE BILL No. 4848

April 29, 2009, Introduced by Reps. Sheltroun and Mayes 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 12 (MCL 247.662), as amended by 2002 PA 498.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12. (1) The amount distributed to the county road
2 commissions shall be returned to the county treasurers in the
3 manner, for the purposes, and under the terms and conditions
4 specified in this section. The department and the county road
5 association of Michigan shall jointly develop incentives for
6 counties to establish statewide purchasing pools for the more
7 efficient use of Michigan transportation funds.

8 (2) Each county road commission shall be reimbursed in an
9 amount up to \$10,000.00 per year for the sum paid to a licensed
10 professional engineer employed or retained by the county road
11 commission in the previous year. The sum shall be returned to each
12 county road commission certified by the state transportation
13 department as complying with this subsection regarding the
14 employment of an engineer.

15 (3) An amount equal to 1% of the total amount returned to the
16 county road commissions from the Michigan transportation fund
17 during the prior calendar year shall be withheld annually from the

1 counties' November monthly distribution provided for in section 17,
2 and the amount shall be returned to the county road commissions for
3 snow removal purposes as provided in section 12a.

4 (4) An amount equal to 10% of the total amount returned to the
5 county road commissions from the Michigan transportation fund shall
6 be returned to each county road commission having county primary,
7 or county local road, or both, mileage in the urban areas as
8 determined pursuant to section 12b. This sum shall be distributed
9 pursuant to section 12b. The return shall be in addition to the
10 amounts provided in subsections (6) and (7) and for the purposes
11 stated in those subsections.

12 (5) An amount equal to 4% of the total amount returned to the
13 county road commissions from the Michigan transportation fund shall
14 be returned to the county road commissions in the same percentages
15 as provided in subsection (7). All money returned to the county
16 road commissions as provided in this subsection shall be expended
17 by the county road commissions for the preservation, construction,
18 acquisition, and extension of county local road systems and shall
19 be in addition to the amounts provided in subsection (7).

20 (6) Seventy-five percent of the remainder of the total amount
21 to be returned to the counties shall be expended by each county
22 road commission for the preservation, construction, acquisition,
23 and extension of the county primary road system, including the
24 acquisition of a necessary right of way for the system, work
25 incidental to the system, and a roadside park or motor parkway
26 appurtenant to the system, and shall be returned to the counties as
27 follows:

1 (a) Three-fourths of the amount in proportion to the amount
2 received within the respective county during the 12 months next
3 preceding the date of each monthly distribution, as specific taxes
4 upon registered motor vehicles under the Michigan vehicle code,
5 1949 PA 300, MCL 257.1 to 257.923.

6 (b) One-tenth of the amount in the same proportion that the
7 total mileage in the county primary road system of each county
8 bears to the total mileage in all of the county primary road
9 systems of the state.

10 (c) One eighty-third of the remaining 15% of the amount to
11 each county.

12 (7) The balance of the remainder of the total amount to be
13 returned to counties shall be expended by each county road
14 commission for the preservation, construction, acquisition, and
15 extension of the county local road system as defined by this act,
16 including the acquisition of a necessary right of way for the
17 system, work incidental to the system, and a roadside park or motor
18 parkway appurtenant to the system, and shall be returned to the
19 counties as follows:

20 (a) Sixty-five percent of the amount in the same proportion
21 that the total mileage in the county local road system of each
22 county bears to the total mileage in all of the county local road
23 systems of the state.

24 (b) Thirty-five percent of the amount in the same proportion
25 that the total population outside of incorporated municipalities in
26 each county bears to the total population outside of incorporated
27 municipalities in all of the counties of the state, according to

1 the most recent statewide federal census as certified at the
2 beginning of the state fiscal year.

3 (8) Money deposited in, or becoming a part of the county road
4 funds of a board of county road commissioners shall be expended
5 first for the payment of principal and interest on the bonds, for
6 the payment of contractual contributions pledged for the payment of
7 bonds, for debt service requirements for the payment of contractual
8 contributions pledged for the payment of bonds, and for debt
9 service requirements for the payment of notes and loans in the
10 following order of priority:

11 (a) For the payment of contributions required to be made by a
12 board of county road commissioners under a contract entered into
13 under 1941 PA 205, MCL 252.51 to 252.64, which contributions have
14 been pledged for the payment of the principal and interest on bonds
15 issued under that act, or for the payment of total debt service
16 requirements upon notes issued by a board of county road
17 commissioners under 1943 PA 143, MCL 141.251 to 141.254.

18 (b) For the payment of principal and interest upon bonds
19 issued under section 18c, and the payment of contributions of a
20 board of county road commissioners to be made pursuant to contracts
21 entered into under section 18d, which contributions are pledged to
22 the payment of principal and interest on bonds issued after June
23 30, 1957, under the authorization of section 18c and contracts
24 executed pursuant to its provisions.

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

1 (9) Not to exceed ~~30%~~ **50%** per year of the amount returned to a
2 county for use on the county primary road system may be expended,
3 with or without matching, on the county local road system of that
4 county. Not to exceed 15% per year of the amount returned to a
5 county for expenditure on the county local road system may be used,
6 with or without matching, on the county primary road system of that
7 county, and not to exceed an additional 15% per year of the amount
8 returned to a county for expenditure on the county local road
9 system, may, in case of an emergency or with the approval of the
10 state transportation department, be expended, with or without
11 matching, on the county primary road system of that county. An
12 amount returned to a county for and on account of county local
13 roads, under this section, in excess of the total amount paid into
14 the county treasury each year by all of the townships of that
15 county for and on account of the county local roads pursuant to
16 section 14(6) may be transferred to and expended on the county
17 primary road system of that county.

18 (10) Not less than 20% per year of the funds returned to a
19 county by this section shall be expended for snow and ice removal,
20 the construction or reconstruction of a new highway or existing
21 highway, and the acquisition of a necessary right of way for those
22 highways, and work incidental to those highways, or for the
23 servicing of bonds issued by the county for these purposes. Surplus
24 funds may be expended for the development, construction, or repair
25 of an off-street parking facility.

26 (11) Not more than 5% per year of the funds returned to a
27 county for the county primary road system and the county local road

1 system shall be expended for the maintenance, improvement, or
2 acquisition of appurtenant roadside parks and motor parkways.

3 (12) Funds returned to a county shall be expended by the
4 county road commission for the purposes provided in this section
5 and shall be deposited by the county treasurer in a designated
6 county depository, in a separate account to the credit of the
7 county road fund, and shall be paid out only upon the order of the
8 county road commission, and interest accruing on the money shall
9 become a part of, and be deposited with the county road fund.

10 (13) In a county to which the funds are returned the function
11 of the county road commission shall be limited to the formation of
12 policy and the performance of the official duties imposed by law
13 and delegated by the county board of commissioners. A member of the
14 county road commission shall not be employed individually in any
15 other capacity for other duties with the county road commission.

16 (14) A county road commission may enter into an agreement with
17 a county road commission of an adjacent county and with a city or
18 village to perform work on a highway, road, or street, and with the
19 state transportation department with respect to a state trunk line
20 and connecting links of the state trunk line within the limits of
21 the county or adjacent to the county. The agreement may provide for
22 the performance by each contracting party of the work contemplated
23 by the contract including engineering services and the acquisition
24 of rights of way in connection with the work contemplated, by
25 purchase or condemnation, by any of the contracting parties in its
26 own name and the agreement may provide for joint participation in
27 the costs.

1 (15) Money distributed from the Michigan transportation fund
2 may be expended for construction purposes on county local roads
3 only to the extent matched by money from other sources. However,
4 Michigan transportation funds may be expended for the construction
5 of bridges on the county local roads in an amount not to exceed 75%
6 of the cost of the construction of local road bridges. This
7 subsection does not apply to section 11b.

8 (16) Notwithstanding any other provision of this act, at least
9 90% of the state revenue returned annually to the county road
10 commission from the Michigan transportation fund less the amounts
11 described in subdivisions (a) to (e) shall be expended annually by
12 the county road commission for the preservation of highways, roads,
13 streets, and bridges, and for the payment of contractual
14 contributions pledged for the payment of bonds or portions of
15 bonds, debt service requirements for the payment of bonds or
16 portions of bonds, and debt service requirements for the payment of
17 notes and loans or portions of notes and loans issued or received
18 after July 1, 1983, for the purpose of providing funds for the
19 preservation of highways, roads, streets, and bridges. If an
20 appropriate certificate is filed under subsection (19) but only to
21 the extent necessary, this subsection shall not prohibit the use of
22 any amount of state revenue returned annually to the county road
23 commissions for the payment of contractual contributions pledged
24 for the payment of bonds, for debt service requirements for the
25 payment of bonds, and for debt service requirements for the payment
26 of notes or loans, whenever issued or received, as specified under
27 subsection (8). The amounts which are deducted from the state

1 revenue returned to a county road commission from the Michigan
2 transportation fund, for the purpose of the calculation required by
3 this subsection are as follows:

4 (a) Amounts expended for the purposes described in subsection
5 (8) for bonds, notes, loans, or other obligations issued or
6 received before July 2, 1983.

7 (b) Amounts expended for the administrative costs of the
8 county road commission.

9 (c) Amounts expended for capital outlay projects for equipment
10 and buildings, and for the payment of contractual contributions
11 pledged for the payment of bonds, for debt service requirements for
12 the payment of bonds, and for debt service requirements for the
13 payment of notes and loans issued or received after July 1, 1983,
14 for the purpose of providing funds for capital outlay projects for
15 equipment and buildings.

16 (d) Amounts expended for projects vital to the economy of the
17 local area or the safety of the public in the local area. Before
18 these amounts can be deducted, the governing body over the county
19 road commission or the county road commission, as applicable, shall
20 pass a resolution approving these projects. This resolution shall
21 state which projects will be funded and the cost of each project. A
22 copy of each approved resolution shall be forwarded immediately to
23 the department.

24 (e) Amounts expended in urban areas as determined pursuant to
25 section 12b.

26 (17) As used in this subsection, "urban routes" means those
27 portions of 2-lane county primary roads within an urban area which

1 has average daily traffic in excess of 15,000. Notwithstanding any
2 other provision of this act, except as provided in this subsection,
3 a county road commission shall expend annually at least 90% of the
4 federal revenue distributed to the use of the county road
5 commission for highways, roads, streets, and bridges, less the
6 amount expended on urban routes for other than preservation
7 purposes and the amount expended for hard-surfacing of gravel roads
8 on the federal-aid system, on the preservation of highways, roads,
9 streets, and bridges. A county road commission may expend in a year
10 less than 90% of the federal revenue distributed to the use of the
11 county road commission for highways, roads, streets, and bridges,
12 less the amount expended on urban routes for other than
13 preservation purposes and the amount expended for hard-surfacing of
14 gravel roads on the federal-aid system, on the preservation of
15 highways, roads, streets, and bridges, if that year is part of a 3-
16 year period in which at least 90% of the total federal revenue
17 distributed in the 3-year period to the use of the county road
18 commission for highways, roads, streets, and bridges, less the
19 amount expended on urban routes for other than preservation
20 purposes and the amount expended for hard-surfacing of gravel roads
21 on the federal-aid system, is expended on the preservation of
22 highways, roads, streets, and bridges. If a county road commission
23 expends in a year less than 90% of the federal revenue distributed
24 to the use of the county road commission for highways, roads,
25 streets, and bridges, less the amount expended on urban routes for
26 other than preservation purposes and the amount expended for hard-
27 surfacing of gravel roads on the federal-aid system, on the

1 preservation of highways, roads, streets, and bridges and that year
2 is not a part of a 3-year period in which at least 90% of the total
3 federal revenue distributed in the 3-year period to the use of the
4 county road commission for highways, roads, streets, and bridges,
5 less the amount expended on urban routes for other than
6 preservation purposes and the amount expended for hard-surfacing of
7 gravel roads on the federal-aid system, is expended on the
8 preservation of highways, roads, streets, and bridges, the county
9 road commission shall expend in each year subsequent to the 3-year
10 period 100%, or less in 1 year if sufficient for the purposes of
11 this subsection, of the federal revenue distributed to the use of
12 the county road commission for highways, roads, streets, and
13 bridges, less the amount expended on urban routes for other than
14 preservation purposes and the amount expended for hard-surfacing of
15 gravel roads on the federal-aid system, on the preservation of
16 highways, roads, streets, and bridges until the average percentage
17 spent on the preservation of highways, roads, streets, and bridges
18 in the 3-year period and the subsequent years, less the amount
19 expended on urban routes for other than preservation purposes and
20 the amount expended for hard-surfacing of gravel roads on the
21 federal-aid system, is at least 90%. A year may be included in only
22 one 3-year period for the purposes of this subsection. The
23 requirements of this subsection shall be waived if compliance would
24 cause the county road commission to be ineligible according to
25 federal law for federal revenue, but only to the extent necessary
26 to make the county road commission eligible according to federal
27 law for that revenue. For the purpose of the calculations required

1 by this subsection, the amount expended on urban routes by a county
2 road commission for other than preservation purposes and the amount
3 expended for hard-surfacing of gravel roads on the federal-aid
4 system shall be deducted from the total federal revenue distributed
5 to the use of the county road commission.

6 (18) A county road commission shall certify, which
7 certification shall, for purposes of the validity of bonds and
8 notes, be conclusive as to the matters stated therein, to the state
9 transportation department on or before the issuance of any bonds or
10 notes issued after July 1, 1983, pursuant to 1943 PA 143, MCL
11 141.251 to 141.254, 1941 PA 205, MCL 252.51 to 252.64, or section
12 18c or 18d, for purposes other than the preservation of highways,
13 roads, streets, and bridges and purposes other than the purposes
14 specified in subsection (16)(c) that its average annual debt
15 service requirements for all bonds and notes or portions of bonds
16 and notes issued after July 1, 1983, for purposes other than the
17 preservation of highways, roads, streets, and bridges and other
18 than for the purposes specified in subsection (16)(c), including
19 the bond or note to be issued does not exceed 10% of the funds
20 returned to the county road commission pursuant to this act, less
21 the amounts specified in subsection (16)(a), (b), and (c) during
22 the last completed fiscal year of the county road commission. If
23 the purpose for which the bonds or notes are issued is changed
24 after the issuance of the notes or bonds, the change shall be made
25 in such a manner to maintain compliance with the certification
26 required by this subsection, as of the date the certificate was
27 originally issued, but no such change shall invalidate or otherwise

1 affect the bonds or notes with respect to which the certificate was
2 issued or the obligation to pay debt service on the bonds or notes.

3 (19) In each charter county to which funds are returned under
4 this section, the responsibility for road improvement,
5 preservation, and traffic operation work, and the development,
6 construction, or repair of off-road parking facilities and
7 construction or repair of road lighting shall be coordinated by a
8 single administrator to be designated by the county executive who
9 shall be responsible for and shall represent the charter county in
10 transactions with the state transportation department pursuant to
11 this act.

12 (20) Not more than 10% per year of all of the funds received
13 by and returned to a county from any source for the purposes of
14 this section may be expended for administrative expenses. A county
15 that expends more than 10% for administrative expenses in a year
16 shall be subject to section 14(5) unless a waiver is granted by the
17 department of treasury. As used in this subsection, "administrative
18 expenses" means those expenses that are not assigned including, but
19 not limited to, specific road construction or preservation projects
20 and are often referred to as general or supportive services.
21 Administrative expenses shall not include net equipment expense,
22 net capital outlay, debt service principal and interest, and
23 payments to other state or local offices which are assigned, but
24 not limited to, specific road construction projects or preservation
25 activities.

26 (21) In addition to the financial compliance audits required
27 by law, the department of treasury shall conduct performance audits

1 and make investigations of the disposition of all state funds
2 received by county road commissions, county boards of
3 commissioners, or any other county governmental agency acting as
4 the county road authority, for transportation purposes to determine
5 compliance with the terms and conditions of this act. Performance
6 audits shall be conducted according to government auditing
7 standards issued by the United States general accounting office.
8 The department of treasury shall provide 6 months notice to the
9 county road commission or county board of commissioners, as
10 applicable, of the standards to be used for audits performed under
11 this subsection prior to the fiscal year in which the audit is
12 conducted. The department shall notify the county road commission
13 or county board of commissioners of any subsequent changes to the
14 standards. County road commissions or county boards of
15 commissioners, as applicable, shall make available to the
16 department of treasury the pertinent records for the audit.