

HOUSE BILL No. 5732

December 18, 2009, Introduced by Reps. Switalski, Johnson and Donigan and referred to the Committee on Intergovernmental and Regional Affairs.

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 2008 PA 485, 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 that has an urban public transportation program approved by the
9 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 under
13 the metropolitan transportation authorities act of 1967, 1967 PA
14 204, MCL 124.401 to 124.426, **OR AN AUTHORITY ORGANIZED OR CONTINUED**
15 **UNDER THE REGIONAL TRANSPORTATION AUTHORITY ACT.**

16 (c) "Eligible governmental agency" means a county, city, or

1 village or an authority created under 1963 PA 55, MCL 124.351 to
2 124.359; the urban cooperation act of 1967, 1967 (Ex Sess) PA 7,
3 MCL 124.501 to 124.512; 1967 (Ex Sess) PA 8, MCL 124.531 to
4 124.536; 1951 PA 35, MCL 124.1 to 124.13; the public transportation
5 authority act, 1986 PA 196, MCL 124.451 to 124.479; or the revenue
6 bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

7 (d) "Transit vehicle" means a bus, rapid transit vehicle,
8 railroad car, street railway car, water vehicle, taxicab, or other
9 type of public transportation vehicle or individual unit, whether
10 operated singly or in a group which provides public transportation.

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

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

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

20 (h) "Public transportation", "comprehensive transportation",
21 "public transportation service", "comprehensive transportation
22 service", "public transportation purpose", or "comprehensive
23 transportation purpose" means the movement of people and goods by
24 publicly or privately owned water vehicle, bus, railroad car,
25 street railway, aircraft, rapid transit vehicle, taxicab, or other
26 conveyance which provides general or special service to the public,
27 but not including charter or sightseeing service or transportation

1 which is exclusively for school purposes. Public transportation,
2 public transportation services, or public transportation purposes;
3 and comprehensive transportation, comprehensive transportation
4 services, or comprehensive transportation purposes as defined in
5 this subdivision are declared by law to be transportation purposes
6 within the meaning of section 9 of article IX of the state
7 constitution of 1963.

8 (i) "State transportation commission" means the state
9 transportation commission established in section 28 of article V of
10 the state constitution of 1963.

11 (j) "Governmental unit" means the state transportation
12 department, the state transportation commission, a county road
13 commission, a city, or a village.

14 (k) "Department" or "department of transportation" means the
15 state transportation department, the principal department of state
16 government created under section 350 of the executive organization
17 act of 1965, 1965 PA 380, MCL 16.450.

18 (l) "Preservation" means an activity undertaken to preserve the
19 integrity of the existing roadway system. Preservation does not
20 include new construction of highways, roads, streets, or bridges, a
21 project that increases the capacity of a highway facility to
22 accommodate that part of traffic having neither an origin nor
23 destination within the local area, widening of a lane width or
24 more, or adding turn lanes of more than 1/2 mile in length.
25 Preservation includes, but is not limited to, 1 or more of the
26 following:

27 (i) Maintenance.

1 (ii) Capital preventive treatments.

2 (iii) Safety projects.

3 (iv) Reconstruction.

4 (v) Resurfacing.

5 (vi) Restoration.

6 (vii) Rehabilitation.

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

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

9 (x) Modernizing intersections.

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

11 (xii) Installing traffic signs in new locations, installing
12 signal devices in new locations, and replacing existing signal
13 devices.

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

24 (n) "Routine maintenance" means actions performed on a regular
25 or controllable basis or in response to uncontrollable events upon
26 a highway, road, street, or bridge. Routine maintenance includes,
27 but is not limited to, 1 or more of the following:

- 1 (i) Snow and ice removal.
- 2 (ii) Pothole patching.
- 3 (iii) Unplugging drain facilities.
- 4 (iv) Replacing damaged sign and pavement markings.
- 5 (v) Replacing damaged guardrails.
- 6 (vi) Repairing storm damage.
- 7 (vii) Repair or operation of traffic signs and signal systems.
- 8 (viii) Emergency environmental cleanup.
- 9 (ix) Emergency repairs.
- 10 (x) Emergency management of road closures that result from
- 11 uncontrollable events.
- 12 (xi) Cleaning streets and associated drainage.
- 13 (xii) Mowing roadside.
- 14 (xiii) Control of roadside brush and vegetation.
- 15 (xiv) Cleaning roadside.
- 16 (xv) Repairing lighting.
- 17 (xvi) Grading.
- 18 (o) "Preventive maintenance" means a planned strategy of cost-
- 19 effective treatments to an existing roadway system and its
- 20 appurtenances that preserve assets by retarding deterioration and
- 21 maintaining functional condition without significantly increasing
- 22 structural capacity. Preventive maintenance includes, but is not
- 23 limited to, 1 or more of the following:
- 24 (i) Pavement crack sealing.
- 25 (ii) Micro surfacing.
- 26 (iii) Chip sealing.
- 27 (iv) Concrete joint resealing.

- 1 (v) Concrete joint repair.
- 2 (vi) Filling shallow pavement cracks.
- 3 (vii) Patching concrete.
- 4 (viii) Shoulder resurfacing.
- 5 (ix) Concrete diamond grinding.
- 6 (x) Dowel bar retrofit.
- 7 (xi) Bituminous overlays of 1-1/2 inches or less in thickness.
- 8 (xii) Restoration of drainage.
- 9 (xiii) Bridge crack sealing.
- 10 (xiv) Bridge joint repair.
- 11 (xv) Bridge seismic retrofit.
- 12 (xvi) Bridge scour countermeasures.
- 13 (xvii) Bridge painting.
- 14 (xviii) Pollution prevention.
- 15 (xix) New treatments as they may be developed.

16 (p) "County road commission" means the board of county road
17 commissioners elected or appointed pursuant to section 6 of chapter
18 IV of 1909 PA 283, MCL 224.6, or, in the case of a charter county
19 with a population of 2,000,000 or more with an elected county
20 executive that does not have a board of county road commissioners,
21 the county executive for ministerial functions and the county
22 commission provided for in section 14(1)(d) of 1966 PA 293, MCL
23 45.514, for legislative functions.

24 (q) "Capital preventive treatments" means any preventive
25 maintenance category project on state trunk line highways that
26 qualifies under the department's capital preventive maintenance
27 program.

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

7 (a) The estimated amount of money in the comprehensive
8 transportation fund to be distributed in the following fiscal year
9 and the amount of money in the comprehensive transportation fund to
10 be distributed to each eligible authority, each intercity carrier,
11 each eligible governmental agency, and the state transportation
12 department; the estimated amount of money in the state trunk line
13 fund to be distributed to the state transportation department for
14 the preservation, as defined in section 10c, of state trunk line
15 highways; and the estimated amount of money in the state trunk line
16 fund to be distributed to the state transportation department for
17 all other purposes in the following fiscal year. The report shall
18 further subdivide the money to be distributed to each eligible
19 authority, each intercity carrier, each eligible governmental
20 agency, the state transportation department from the comprehensive
21 transportation fund, the state transportation department from the
22 state trunk line fund for the preservation of state trunk line
23 highways, and the state transportation department from the state
24 trunk line fund for all other purposes specifying how much of that
25 money is proposed to be expended for either capital acquisitions,
26 including demonstration projects, or for operating expenses,
27 including demonstration projects.

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

18 (c) Each project certified to be eligible for a multiyear
19 funding commitment.

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

21 (e) An account of the state transportation department's
22 compliance in the preceding year with the requirements of section
23 11(2) and (3). The report shall also specify the justification for
24 a waiver of the requirement of section 11(3), if that requirement
25 was waived.

26 (2) The financial transactions and accounts related to
27 distributions made from the comprehensive transportation fund to an

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

22 (3) There is hereby established a task force composed of the
23 Michigan public transit association, the Michigan motorbus
24 association, the Michigan rail users and supporters association,
25 the Michigan railroad association, a representative of a state-
26 owned or leased short line railroad, and the office of auditor
27 general or a certified public accountant appointed by the auditor

1 general, to assist the department in the development of the
2 progress report requirements outlined in subsection (1)(b).

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

20 (2) For each 12-month period described in subsection (1), a
21 city, village, or township described in subsection (1) may apply to
22 the authority to use its credit for public transportation purposes
23 within the authority's jurisdiction. However, the money returned in
24 terms of a credit to any city, village, or township ~~which~~ **THAT**
25 provides public transportation service for that city, village, or
26 township shall be used exclusively toward reducing the operating
27 deficit of that service. ~~Moreover, any~~ **ANY** service provided by the

1 city, township, or village utilizing the credit received pursuant
2 ~~to~~ **UNDER** this section shall be operated by the authority returning
3 the money in terms of a credit on a contractual basis with each
4 city, village, or township or with a combination of cities,
5 villages, and townships. If a city, township, or village has not
6 applied to the authority to utilize its credit pursuant to this
7 subsection by the last day of the 12-month period, that
8 municipality's share of the money credited pursuant to subsection
9 (1) shall be used by the authority for an expenditure within the
10 county within which the city, village, or township lies.

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

20 (4) Notwithstanding any other section of this or any other
21 act, each authority authorized by this section to return money in
22 terms of a credit shall have the final decision as to what
23 constitutes a proper expenditure, a public transportation service,
24 or a public transportation purpose under subsections (2) and (3).

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

1 expended.

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

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

8 Sec. 10n. (1) Funds from the comprehensive transportation fund
9 may be distributed to a trustee, or to the Michigan municipal bond
10 authority as created under the shared credit rating act, 1985 PA
11 227, MCL 141.1051 to 141.1076, that is authorized to receive the
12 funds under a borrowing resolution adopted by an eligible
13 authority. The issuance of the notes of an eligible authority in
14 anticipation of payment of proceeds from the comprehensive
15 transportation fund shall be authorized by a borrowing resolution
16 of the eligible authority under the metropolitan transportation
17 authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426, **OR**
18 **THE REGIONAL TRANSPORTATION AUTHORITY ACT**. The issuance of the
19 notes under this section is not subject to the revised municipal
20 finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and shall be
21 subject to the prior approval of the state transportation
22 commission. Failure of the commission to take action within 35 days
23 after receipt of notification from the eligible authority of intent
24 to issue the notes, constitutes approval by the state
25 transportation commission. The eligible authority may only issue
26 the notes in anticipation of funds to be received during its
27 current fiscal year at any time before the eligible authority's

1 receipt of the funds from the comprehensive transportation fund.
2 The principal amount of notes for which the funds to be received
3 from the comprehensive transportation fund are pledged shall not
4 exceed 85% of the amount remaining to be received by the eligible
5 authority from the comprehensive transportation fund in the current
6 fiscal year. The pledge of 100% of the funds the eligible authority
7 expects to receive from the comprehensive transportation fund shall
8 be secured by a direct transfer of the pledge funds from the
9 comprehensive transportation fund to the trustee or the Michigan
10 municipal bond authority that is authorized to receive the funds by
11 the borrowing resolution adopted by the eligible authority. The
12 notes of the eligible authority shall not be in any way a debt or a
13 liability of the state and shall not create or constitute any
14 indebtedness, liability, or obligations of the state or be or
15 constitute a pledge of the full faith and credit of the state. Each
16 note shall contain on its face a statement to the effect that the
17 eligible authority is obligated to pay the principal of and the
18 interest on the note only from funds of or due to the eligible
19 authority and that this state is not obligated to pay that
20 principal or interest and that neither the faith in credit nor the
21 taxing power of this state is pledged to the payment of the
22 principal of or the interest on the note. The notes shall mature
23 not more than 13 months from the date of issuance, shall bear
24 interest at a fixed or variable rate or rates of interest per
25 annum, and, in addition to other security required by this section,
26 may be secured by letter or line of credit issued by a financial
27 institution or as provided in the borrowing resolution.

1 (2) The issuance of notes under this section is subject to the
2 agency financing reporting act, **2002 PA 470, MCL 129.171 TO**
3 **129.177.**

4 Enacting section 1. This amendatory act does not take effect
5 unless Senate Bill No.____ or House Bill No. 5731(request no.
6 05401'09 *) of the 95th Legislature is enacted into law.