

SENATE BILL No. 1289

September 19, 2012, Introduced by Senator HILDENBRAND 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 promote safe and efficient travel for motor vehicle drivers, bicyclists, pedestrians, and other legal users of roads, streets, and highways; 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

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

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

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

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

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

1 expenses as defined by the ~~state transportation~~ department. For
2 purposes of receiving a grant under this subparagraph in
3 nonurbanized areas, eligible costs of services provided by water
4 vehicle shall be reimbursed at not less than 50% of the portion of
5 the costs not eligible for reimbursement by the federal government.

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

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

20 (v) Notwithstanding any other provision of this subsection,
21 for the fiscal year ending September 30, 1998 **AND EACH FISCAL YEAR**
22 **THEREAFTER**, each eligible authority and eligible governmental
23 agency **RECEIVING FUNDS UNDER SUBDIVISION (A) (ii)** shall receive a
24 distribution from the comprehensive transportation fund not less
25 than the distribution received for eligible operating expenses for
26 the fiscal year ending September 30, 1997. ~~Beginning with the~~
27 ~~fiscal year ending September 30, 1998 and each fiscal year~~

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

12 (vi) Each eligible authority and eligible governmental agency
13 receiving comprehensive transportation funds shall prepare and
14 submit to the department a quarterly report of the progress made in
15 carrying out its local transportation program within 40 days after
16 the end of each fiscal year quarter. The progress report shall be
17 made on forms authorized by the United States department of
18 transportation under the provisions of the surface transportation
19 and uniform relocation assistance act of 1987, Public Law 100-17,
20 101 Stat. 132.

21 (vii) The department shall periodically adjust or redistribute
22 comprehensive transportation funds previously distributed under
23 this subdivision.

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

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

14 (i) The specialized services assistance program. The
15 specialized services assistance program shall be funded with not
16 less than \$3,600,100.00 from funds distributed under this
17 subdivision. Funds shall be distributed according to guidelines
18 developed by the department based upon the following
19 considerations:

20 (A) Proposals for coordinated specialized services assistance
21 funding shall be developed jointly between existing eligible
22 authorities or eligible governmental agencies that provide public
23 transportation services and the area agencies on aging or any other
24 organization representing specialized services interests, as
25 defined in this subdivision. Plans shall be reviewed and approved
26 by the bureau of urban and public transportation of the department.
27 Upon approval, the department shall release the funds to the

1 eligible authority or eligible governmental agency, which shall
2 then allocate the funds to the area agency on aging or any other
3 organization representing specialized services interests, as
4 defined in this subdivision for the purchase of services as
5 approved in the plan by the department.

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

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

20 (ii) Local bus capital. For the fiscal year ending September
21 30, 1998 and each fiscal year thereafter, not less than
22 \$8,000,000.00 will be distributed for either matching federal funds
23 for local bus capital or 100% capital projects for eligible
24 authorities and eligible governmental agencies that are not
25 eligible to receive federal capital formula funds under section
26 5307 of the federal intermodal surface transportation efficiency
27 act, Public Law 102-240, or any successor act.

1 (iii) Local bus new services.

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

4 (v) Public transportation development.

5 (vi) Other public transportation programs approved by the
6 commission.

7 (d) The unappropriated and unencumbered balance of the
8 comprehensive transportation fund lapses at the end of each fiscal
9 year and reverts to the comprehensive transportation fund for
10 appropriation in the following fiscal year.

11 (5) Eligible authorities and eligible governmental agencies
12 shall receive capital grants each fiscal year by the annual process
13 described in this section. Amounts received by an eligible
14 authority or eligible governmental agency pursuant to this
15 subsection shall be expended by that authority or agency solely for
16 capital projects ~~which~~ **THAT** have been approved by the ~~state~~
17 ~~transportation~~-commission. Any funds approved by distribution to an
18 eligible authority or eligible governmental agency pursuant to this
19 section ~~which~~ **THAT** have not been encumbered by that agency or
20 authority for an approved capital project by the end of the **YEAR**
21 following **THE** fiscal year in which the funds were approved shall
22 not be expended by the authority or agency and ~~be~~ **ARE** available for
23 distribution from the comprehensive transportation fund for the
24 purposes described in this section.

25 (6) The department, in carrying out the policy of the ~~state~~
26 ~~transportation~~-commission, shall annually prepare and distribute by
27 December 1, instructions to eligible governmental agencies,

1 eligible authorities, and intercity carriers to enable the
2 preparation of a local transportation program. Eligible
3 governmental agencies, eligible authorities, and intercity carriers
4 shall give public notice of their intent to apply for money in the
5 comprehensive transportation fund to the residents of the counties,
6 townships, villages, and cities affected by the local
7 transportation program and shall make their application available
8 for a period of 30 days. All comments received by the eligible
9 governmental agency, eligible authority, or intercity carrier shall
10 be transmitted to the department.

11 (7) On or before March 1 of each year, each intercity carrier,
12 eligible authority, and eligible governmental agency shall submit
13 to the department its local transportation program for the next
14 succeeding fiscal year. The format for each local transportation
15 program shall be as prescribed by the federal transportation
16 improvement program insofar as practical and shall include project
17 descriptions, funding sources, and justification for each line
18 item, and summary budgets based on distributions anticipated under
19 subsection (4). The program shall contain at a minimum the
20 contemplated routes, hours of service, estimated transit vehicle
21 miles, costs of public transportation services, and projected
22 capital improvements or projects as exclusively determined by the
23 eligible authority or eligible governmental agency. The costs of
24 service and capital improvements or projects shall be in sufficient
25 detail to permit the ~~state transportation~~ department to evaluate
26 and approve the annual public transportation program. Determination
27 of individual projects to be included in the local transportation

1 programs other than those provided in this subsection shall be made
2 by the governing body of the eligible authority or eligible
3 governmental agency.

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

15 (9) On or before April 1 of each year, the department shall
16 prepare and file with the commission the proposed state
17 transportation program for the next succeeding fiscal year. The
18 proposed state transportation program shall contain the local
19 transportation programs of each intercity carrier, eligible
20 authority and eligible governmental agency, the department
21 transportation program, and the programs for the expenditure of the
22 state trunk line fund as ~~they may have been~~ supplemented, amended,
23 or modified since their original filing. The state transportation
24 program shall include the estimated amount of money in the funds
25 described in this subsection by revenue source, project
26 justifications, project descriptions funding sources, and budget
27 summaries.

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

16 (11) By October 1, the department and each intercity carrier,
17 eligible authority, or eligible governmental agency shall enter
18 into a contractual agreement or standardized grant memorandum of
19 agreement, which may cover 1 or more projects to be made from this
20 section in the applicable fiscal year to the intercity carrier,
21 eligible authority, or eligible governmental agency from the
22 comprehensive transportation fund.

23 (12) After a multiyear public transportation program is
24 approved by the ~~state transportation~~ commission, the ~~state~~
25 ~~transportation~~ department may enter into a grant-in-aid instrument
26 with an eligible authority, intercity carrier, or eligible
27 governmental agency obligating the state to a minimum level of

1 funding for approved projects to be available over the multiyear
2 period of the program. This obligation shall be binding upon the
3 ~~state transportation~~ department as long as the provisions and
4 conditions of the ~~state transportation~~ commission approved program
5 are carried out as agreed.

6 (13) Contracts and grant memorandum agreements may be audited
7 by the ~~state transportation~~ commission's office of commission
8 audits using rules promulgated by the United States general
9 accounting office and the terms and conditions of the respective
10 contracts and agreements. Third party agreements are subject to the
11 review and approval of the department.

12 (14) Funds distributed by the department may pay 100% of the
13 portion of the cost not eligible for reimbursement by the federal
14 government for eligible capital projects authorized by the ~~state~~
15 ~~transportation~~ commission using comprehensive transportation funds
16 or the proceeds of notes and bonds issued under section 18b.
17 Priority for funding obligation shall be given to capital projects
18 for which federal funds have been authorized.

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

25 (a) Startup 100%.

26 (b) First year 90%.

27 (c) Second year 80%.

1 (d) Third year 70%.

2 (e) Fourth year and each year thereafter, as determined by and
3 from funds provided under subsection (4)(a). The balance of
4 eligible operating expenses shall be met from local revenue sources
5 including farebox. The department shall pay up to 100% of eligible
6 capital expenses during the startup and first 3 years of service,
7 **AND** after the third year, the department shall participate in
8 eligible capital expenses in the same percentage as for other
9 eligible authorities and eligible governmental agencies. ~~For the~~
10 ~~purposes of this subsection, eligible operating and capital~~
11 ~~expenses means those expenses determined by the department as~~
12 ~~applicable to existing eligible authorities and eligible~~
13 ~~governmental agencies.~~ The department shall prioritize annually all
14 requests for comprehensive transportation funds to institute new
15 services under this subsection. First priority shall be given to
16 eligible authorities and eligible governmental agencies who have
17 not completed their first 3 years of service by October 1, 1998.
18 New services initiated by eligible authorities and eligible
19 governmental agencies under this subsection shall meet all of the
20 requirements of section 10. **AS USED IN THIS SUBSECTION, "ELIGIBLE**
21 **OPERATING EXPENSES" AND "ELIGIBLE CAPITAL EXPENSES" MEAN THOSE**
22 **EXPENSES DETERMINED BY THE DEPARTMENT AS APPLICABLE TO EXISTING**
23 **ELIGIBLE AUTHORITIES AND ELIGIBLE GOVERNMENTAL AGENCIES.**

24 (16) The department shall pay up to 80% of the portion of the
25 cost not eligible for reimbursement by the federal government for
26 intercity passenger operating assistance projects authorized by the
27 commission for the first 2 years of new services. For the third

1 year, eligible costs shall be reimbursed at up to 60% of the
2 portion of the cost not eligible for reimbursement by the federal
3 government. After the third year, eligible costs shall be
4 reimbursed at up to 50% of the portion of the cost not eligible for
5 reimbursement by the federal government. Eligible costs of services
6 provided as of September 30, 1981, shall be reimbursed at up to 50%
7 of the portion of the cost not eligible for reimbursement by the
8 federal government. However, the amount of funds from the
9 comprehensive transportation fund when added to federal funds and
10 local funds shall not exceed the total operating assistance project
11 cost.

12 (17) A vehicle purchased, leased, or rented after November 15,
13 1976, by an eligible authority or eligible governmental agency with
14 funds made available under this act, which funds were not already
15 committed under a contract in existence on November 15, 1976, shall
16 not be used to provide service on a fixed schedule and fixed route
17 for which a passenger fee is charged unless the vehicle is
18 accessible to a person using a wheelchair from a roadway level or
19 curb level, and has accommodations in which 1 or more wheelchairs
20 can be secured.

21 (18) A vehicle **TO BE USED FOR THE PURPOSE OF PROVIDING DEMAND**
22 **ACTUATED SERVICE** shall not be purchased, leased, or rented by an
23 eligible authority or eligible governmental agency after October 1,
24 1978, with funds made available under this act ~~which vehicle is~~
25 ~~used to provide demand actuated service~~ unless the eligible
26 authority or eligible governmental agency has submitted a plan to
27 the ~~state transportation~~ department describing the service to be

1 provided by the demand actuated service to persons 65 years of age
2 or older and persons with disabilities within the applicable
3 service area and that plan has been approved by the department. The
4 department shall approve the plan as submitted or modified or shall
5 reject the plan within 60 days after the plan is submitted. A plan
6 ~~which~~**THAT** describes the service to be provided by the demand
7 actuated service shall not be approved by the department unless
8 ~~that~~**THE** plan provides the following:

9 (a) That demand actuated service will be provided to persons
10 65 years of age or older and persons with disabilities residing in
11 the entire service area subject to the plan.

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

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

22 (d) That the eligible authority or eligible governmental
23 agency submitting the plan has established a local advisory council
24 with not less than 50% of its membership representing persons 65
25 years of age or older and persons with disabilities within the
26 service area subject to the plan and that the local advisory
27 council has had an opportunity to review and comment upon the plan

1 before its submission to the department. Each eligible authority or
2 eligible governmental agency jointly with the area agency on aging
3 shall approve at least 1 or the equivalent of 12% of the membership
4 of the local advisory council. Each advisory council comment shall
5 be included in the plan when submitted to the department.

6 (19) Notwithstanding subsection (18), a plan required by
7 subsection (18) ~~which~~ **THAT** is not approved or rejected by the ~~state~~
8 ~~transportation~~ department within 60 days after submission shall be
9 considered approved as submitted.

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

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

20 (22) Notwithstanding any other provision of this section, for
21 each fiscal year that begins after September 30, 2009, the governor
22 and the state budget director shall include in the annual budget
23 submitted to the legislature for the ensuing fiscal period under
24 section 18 of article V of the state constitution of 1963 an
25 appropriation from a fund or funds other than the comprehensive
26 transportation fund to a street railway organized under the
27 nonprofit street railway act, 1867 PA 35, MCL 472.1 to 472.27, of a

1 sum equal to the difference between the annual operating expenses
2 of the street railway and revenue received by the street railway
3 during the same annual period, including, but not limited to, tax
4 increment revenues received by the street railway under section 23
5 of the nonprofit street railway act, 1867 PA 35, MCL 472.23. The
6 appropriation submitted in the budget under this section shall not
7 exceed 8% of the total private investment in the street railway as
8 determined by the department. A street railway is not an eligible
9 authority or eligible governmental agency for purposes of
10 subdivision (4)(a).