

HOUSE BILL No. 4925

August 2, 2013, Introduced by Rep. Lane and referred to the Committee on Transportation and Infrastructure.

A bill to amend 1964 PA 286, entitled

"An act to provide for the organization, powers, and duties of the state transportation commission and the state transportation department; to provide for the appointment, powers, and duties of the state transportation director; to abolish the office of state highway commissioner and the commissioner's advisory board and to transfer their powers and duties; to provide for penalties and remedies; and to repeal certain acts and parts of acts,"

by amending the title and sections 1, 6a, 7, 7a, and 10 (MCL 247.801, 247.806a, 247.807, 247.807a, and 247.810), the title as amended by 1984 PA 398 and section 7a as amended by 1981 PA 122, and by adding sections 7b, 7c, 7d, 7e, 7f, 7g, 7h, and 7i.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to provide for the organization, powers, and duties of the state transportation commission and the state transportation department; to provide for the appointment, powers, and duties of

the state transportation director; to abolish the office of state highway commissioner and the commissioner's advisory board and to transfer their powers and duties; **TO PROVIDE FOR PUBLIC TRANSPORTATION FACILITIES; TO PROVIDE FOR THE CREATION OF CERTAIN AUTHORITIES; TO AUTHORIZE PUBLIC-PRIVATE AGREEMENTS RELATING TO RESEARCHING, PLANNING, STUDYING, DESIGNING, DEVELOPING, FINANCING, ACQUIRING, CONSTRUCTING, CHARGING USER FEES, OPERATING, OR MAINTAINING A PUBLIC TRANSPORTATION FACILITY; TO PROVIDE FOR OTHER ARRANGEMENTS FOR THE CREATION AND OPERATION OF PUBLIC TRANSPORTATION FACILITIES THAT MAY BE FINANCED BY USER FEES, CHARGES, AND OTHER REVENUE; TO PROVIDE FOR THE SALE OF BONDS; TO PROVIDE FOR CERTAIN POWERS OF CERTAIN STATE DEPARTMENTS;** to provide for penalties and remedies; and to repeal ~~certain acts~~ and parts of acts.

Sec. 1. As used in this act:

(A) ~~(1)~~ "Commission" means the state transportation commission.

(B) "CONCESSIONAIRE" MEANS A PRIVATE ENTITY THAT HAS ENTERED INTO A PUBLIC-PRIVATE AGREEMENT UNDER SECTION 7B.

(C) ~~(2)~~ "Director" means the director of ~~transportation~~. **THE DEPARTMENT.**

(D) ~~(3)~~ "Department" means the **STATE TRANSPORTATION** department. ~~of transportation.~~

(E) "INSTRUMENTALITY OF GOVERNMENT" MEANS A PUBLIC ENTITY CREATED OR EMPOWERED TO CARRY OUT FUNCTIONS COMMONLY CARRIED OUT BY UNITS OF GOVERNMENT, PUBLIC AGENCIES, OR PUBLIC AUTHORITIES. INSTRUMENTALITY OF GOVERNMENT INCLUDES THE GOVERNMENT OF CANADA OR

1 A PUBLIC AGENCY OR PUBLIC AUTHORITY CREATED BY THE GOVERNMENT OF
2 CANADA OR ANOTHER STATE OF THE UNITED STATES OR A CORPORATION
3 WITHOUT SHARE CAPITAL CREATED AND EMPOWERED UNDER THE CANADIAN
4 INTERNATIONAL BRIDGES AND TUNNELS ACT TO CARRY OUT FUNCTIONS
5 COMMONLY CARRIED OUT BY THE GOVERNMENT OF CANADA.

6 (F) "PRIVATE ENTITY" MEANS ANY NATURAL PERSON, CORPORATION,
7 GENERAL PARTNERSHIP, LIMITED LIABILITY COMPANY, LIMITED
8 PARTNERSHIP, JOINT VENTURE, BUSINESS TRUST, PUBLIC BENEFIT
9 CORPORATION, NONPROFIT ENTITY, OR OTHER NONGOVERNMENTAL BUSINESS
10 ENTITY.

11 (G) "PUBLIC-PRIVATE AGREEMENT" MEANS AN AGREEMENT BETWEEN A
12 PRIVATE ENTITY AND THE DEPARTMENT OR BETWEEN A PRIVATE ENTITY, THE
13 DEPARTMENT, AND 1 OR MORE OTHER INSTRUMENTALITIES OF GOVERNMENT
14 THAT RELATES TO RESEARCHING, PLANNING, STUDYING, DESIGNING,
15 DEVELOPING, FINANCING, ACQUIRING, CONSTRUCTING, CHARGING USER FEES,
16 OPERATING, OR MAINTAINING A PUBLIC TRANSPORTATION FACILITY, OR ANY
17 COMBINATION OF THOSE ACTIVITIES. PUBLIC-PRIVATE AGREEMENT INCLUDES
18 AN AGREEMENT BETWEEN THE DEPARTMENT AND 1 OR MORE INSTRUMENTALITIES
19 OF GOVERNMENT IF THE AGREEMENT IS RELATED TO A PROJECT THAT HAS OR
20 WILL HAVE AN AGREEMENT BETWEEN THE DEPARTMENT OR AN INSTRUMENTALITY
21 OF GOVERNMENT AND A PRIVATE ENTITY.

22 (H) "PUBLIC TRANSPORTATION FACILITY" MEANS ANY NEW OR EXISTING
23 DOMESTIC OR INTERNATIONAL HIGHWAY, LANE, ROAD, BRIDGE, TUNNEL,
24 OVERPASS, RAMP, INTERCHANGE, FERRY, AIRPORT, VEHICLE PARKING
25 FACILITY, VEHICLE TRANSPORTATION FACILITY, PORT FACILITY, LOCKS
26 FACILITY, RAIL FACILITY, INTERMODAL OR OTHER PUBLIC TRANSIT
27 FACILITY, OR ANY OTHER EQUIPMENT, ROLLING STOCK, SITE, OR FACILITY

1 USED IN THE TRANSPORTATION OF PERSONS, GOODS, SUBSTANCES, VEHICLES,
2 INFORMATION, OR MATTER OF ANY KIND, AND ANY BUILDING, STRUCTURE,
3 PARKING AREA, APPURTENANCE, OR OTHER PROPERTY NECESSARY OR
4 DESIRABLE FOR THE FACILITY.

5 Sec. 6a. The director may do the following:

6 (a) Organize the department and its work, supervise the work
7 of the employees **AND AGENTS** of the department, create, merge, and
8 abolish organizational divisions within the department, and
9 transfer or merge functions among those divisions in the interest
10 of economy and efficiency.

11 (b) Employ personnel necessary to carry out the duties of the
12 director and the responsibilities of the department subject to
13 **CONTRACTUAL OBLIGATIONS AND** laws governing state employment.

14 (c) Delegate to any employee of the department ~~, subject to~~
15 ~~the approval of the commission, any powers vested in the director~~
16 or delegated to the director by the commission **EXCEPT THE POWER TO**
17 **ENTER INTO A PUBLIC-PRIVATE AGREEMENT UNDER SECTION 7B.**

18 (d) Establish a program of current and long-range planning for
19 the transportation systems under the department's jurisdiction **AND**
20 **PUBLIC TRANSPORTATION FACILITIES OF THE DEPARTMENT.**

21 (e) Direct the preparation of budget requests, expenditures,
22 programs and periodical allotments.

23 (f) Purchase materials, supplies, and equipment. ~~as necessary~~
24 ~~and proper to carry out the duties of the department as provided by~~
25 ~~law governing state purchasing.~~

26 **(G) PURCHASE SERVICES IN ACCORDANCE WITH APPLICABLE CIVIL**
27 **SERVICE RULES.**

1 (H) ACQUIRE INTERESTS IN REAL AND PERSONAL PROPERTY, INCLUDING
2 BY CONDEMNATION.

3 (I) ~~(g)~~—Dispose of obsolete equipment, surplus supplies and
4 material that cannot be used by the department as provided by law
5 governing the disposal.

6 (J) ~~(h)~~—Do anything necessary and proper to comply fully with
7 the provisions of present or future federal aid acts.

8 (K) ENTER INTO PUBLIC-PRIVATE AGREEMENTS UNDER SECTION 7B
9 SUBJECT TO THE APPROVAL OF THE COMMISSION.

10 (L) ~~(i)~~—Do anything necessary and proper to carry out the
11 duties imposed upon the department by the constitution and other
12 duties as may be imposed by law.

13 Sec. 7. (1) The commission's powers and duties ~~shall~~ include:

14 (a) The ~~awarding~~ **APPROVAL FOR AWARD BY THE DEPARTMENT** of ~~all~~
15 contracts for the construction, improvement, and maintenance of the
16 highways and **PUBLIC** transportation facilities ~~under its~~
17 ~~jurisdiction~~ **OF THE DEPARTMENT**, as provided by ~~law~~ **RESOLUTION OF**
18 **THE COMMISSION**.

19 (b) The establishment of transportation policies for the
20 guidance and direction of the director.

21 (C) **THE APPROVAL FOR AWARD BY THE DEPARTMENT OF ALL PUBLIC-**
22 **PRIVATE AGREEMENTS**.

23 (2) The commission may do the following:

24 (a) Delegate to any member of the commission, the director, or
25 any subordinate, any powers, other than the power to establish
26 policy, vested in the commission as it considers necessary and
27 proper, ~~and permit the director to delegate any powers delegated~~

~~to him or her by the commission~~ **EXCEPT FOR THE POWER TO APPROVE PUBLIC-PRIVATE AGREEMENTS UNDER THIS SECTION.**

(b) ~~Acquire,~~ **AUTHORIZE THE DEPARTMENT TO ACQUIRE,** own, and hold **INTERESTS IN** real and personal property in the name of ~~the~~ **THIS** state or the ~~commission~~ **DEPARTMENT** and **TO** sell, lease or otherwise dispose of, or encumber, **ANY INTERESTS IN** the same in connection with, and in furtherance of, its duties and the purposes of this act, **SUBJECT TO RESOLUTIONS OF THE COMMISSION.**

(c) Do anything necessary and proper to carry out the duties imposed upon it by the constitution and such other duties as may be imposed by law.

(3) THE COMMISSION SHALL CONDUCT A PUBLIC HEARING AT LEAST ONCE EVERY 5 YEARS TO RECEIVE PUBLIC COMMENT AND INPUT WITH REGARD TO THEN EXISTING PUBLIC TRANSPORTATION FACILITIES OPERATED UNDER A PUBLIC-PRIVATE AGREEMENT.

Sec. 7a. (1) As used in this section:

(a) "Completion" means the date when the construction, improvement, or maintenance of a bridge, highway, or other transportation facility is accepted in accordance with the contract documents, so that the bridge, highway, or other transportation facility may be used for its intended purpose.

(b) "Construction contract" means an agreement between a contractor and the department for the construction, improvement, or maintenance of a bridge, highway, or other transportation facility. **CONSTRUCTION CONTRACT DOES NOT INCLUDE A PUBLIC-PRIVATE AGREEMENT.**

(c) ~~"Contractor"~~ **"CONSTRUCTION CONTRACTOR"** means an individual; ~~sole proprietorship; partnership; corporation; joint~~

1 ~~venture, or other legal~~ **A PERSON OR** entity, other than ~~the~~ **THIS**
2 state, or an agency or department of ~~the~~ **THIS** state, who is a party
3 to a construction contract.

4 ~~—— (d) "Project" means the specific section 9 of the highway~~
5 ~~construction to be performed under the construction contract.~~

6 (2) A construction contract may provide for partial payments
7 to be made periodically to a **CONSTRUCTION** contractor. The
8 department may establish specifications regarding the retention of
9 a portion of the total amount earned under the construction
10 contract.

11 (3) At the request of the **CONSTRUCTION** contractor and upon the
12 approval of the department, the portion retained pursuant to the
13 specifications established under subsection (2) shall be placed in
14 an escrow account pursuant to this section.

15 (4) An escrow agent may be selected by the **CONSTRUCTION**
16 contractor. For purposes of this section, an escrow agent shall be
17 a state or national bank, a state or federally chartered savings
18 and loan association, or a state or federally chartered credit
19 union whose principal place of business is located in this state.

20 (5) An escrow agreement shall be entered into between the
21 contracting parties and the escrow agent. The escrow agreement
22 shall contain all of the following terms:

23 (a) That the escrow agent shall promptly invest all of the
24 escrowed funds.

25 (b) That the escrow agent shall hold the escrowed funds until
26 receipt of notice from the department. Upon receipt of a notice of
27 release from the department, the escrow agent shall promptly remit

1 the designated portion of escrowed funds to the **CONSTRUCTION**
2 contractor involved in the contract. Upon receipt of a notice of
3 overpayment or default of the contract, the escrow agent shall
4 promptly remit the designated portion of escrowed funds to the
5 department.

6 (c) That the escrow agent is responsible for all investments
7 and money as a result of the deposit of the amount until released
8 from responsibility pursuant to the escrow agreement.

9 (d) That the **CONSTRUCTION** contractor shall pay all expenses
10 regarding the deposit, investment, and administration of the
11 retained amount and all other charges made by the escrow agent.

12 (e) Any other provision agreed to by the contracting parties
13 and the escrow agent necessary or proper for purposes of this
14 section.

15 **SEC. 7B. (1) THE DEPARTMENT MAY ENTER INTO PUBLIC-PRIVATE**
16 **AGREEMENTS AS PROVIDED IN THIS ACT. PUBLIC-PRIVATE AGREEMENTS SHALL**
17 **INCLUDE TERMS DESIGNED TO PROTECT THE PUBLIC INTEREST AND ENSURE**
18 **ACCOUNTABILITY OF A CONCESSIONAIRE TO THE DEPARTMENT OR A PUBLIC**
19 **ENTITY CREATED UNDER MICHIGAN LAW FOR A PUBLIC TRANSPORTATION**
20 **FACILITY IN THIS STATE, WHICHEVER IS APPLICABLE. A PUBLIC-PRIVATE**
21 **AGREEMENT MAY CONTAIN TERMS AND CONDITIONS THAT THE DEPARTMENT MAY**
22 **DETERMINE OR NEGOTIATE TO FACILITATE THE RESEARCHING, PLANNING,**
23 **STUDYING, DESIGNING, DEVELOPING, FINANCING, ACQUIRING,**
24 **CONSTRUCTING, CHARGING USER FEES, GOVERNING, OPERATING, OR**
25 **MAINTAINING OF A PUBLIC TRANSPORTATION FACILITY IN THE PUBLIC**
26 **INTEREST. A PUBLIC TRANSPORTATION FACILITY SHALL BE PUBLICLY OWNED**
27 **AND SHALL BE DEDICATED TO THE PUBLIC USE AS A PUBLIC TRANSPORTATION**

1 FACILITY AS PROVIDED IN THIS ACT.

2 (2) A PUBLIC-PRIVATE AGREEMENT SHALL PROVIDE FOR THE TERMS OF
3 THE USE AND OPERATION OF A PUBLIC TRANSPORTATION FACILITY BY A
4 CONCESSIONAIRE FOR A PERIOD THE DEPARTMENT DETERMINES IS NECESSARY
5 FOR THE DEVELOPMENT AND FINANCING OF A PUBLIC TRANSPORTATION
6 FACILITY AND THE ECONOMIC FEASIBILITY OF THE PUBLIC-PRIVATE
7 AGREEMENT. THE PUBLIC-PRIVATE AGREEMENT MAY INCLUDE A LEASE,
8 LICENSE, RIGHT OF ENTRY, OR OTHER INSTRUMENT FOR THE PUBLIC
9 TRANSPORTATION FACILITY AS THE DEPARTMENT DETERMINES IS IN THE BEST
10 INTEREST OF THE PUBLIC. THE AGREEMENT MAY PROVIDE FOR AN INITIAL
11 OPERATING TERM NOT EXCEEDING 50 YEARS FROM THE LATER OF COMPLETION
12 OF CONSTRUCTION OR COMMENCEMENT OF COLLECTING USER FEES, IF USER
13 FEES ARE COLLECTED, UNLESS A LONGER TERM IS REQUIRED FOR THE
14 ECONOMIC FEASIBILITY OF THE PUBLIC-PRIVATE AGREEMENT AS DETERMINED
15 BY THE DEPARTMENT AND APPROVED BY THE COMMISSION. THE AGREEMENT
16 SHALL PROVIDE THAT THE OWNERSHIP OF A PUBLIC TRANSPORTATION
17 FACILITY WITHIN THIS STATE SHALL BE VESTED IN THE DEPARTMENT OR A
18 PUBLIC ENTITY CREATED UNDER MICHIGAN LAW, AND THAT TITLE TO THE
19 PUBLIC TRANSPORTATION FACILITY SHALL NOT BE ENCUMBERED. NO
20 PROVISION OF A PUBLIC-PRIVATE AGREEMENT SHALL ALLOW THE PUBLIC TO
21 BE DEPRIVED OF THE USE AND BENEFIT OF A PUBLIC TRANSPORTATION
22 FACILITY EXCEPT AS NECESSARY TO IMPLEMENT USER FEES OR ANCILLARY
23 CHARGES AUTHORIZED BY THIS SECTION, TO REGULATE THE LEVEL OR
24 CHARACTER OF PERMISSIBLE USES OF THE PUBLIC TRANSPORTATION
25 FACILITY, TO ADDRESS ISSUES OF PUBLIC SAFETY OR SECURITY, OR TO
26 MAINTAIN, REPAIR, OR IMPROVE THE PUBLIC TRANSPORTATION FACILITY. A
27 PUBLIC-PRIVATE AGREEMENT SHALL PROVIDE FOR THE TERMINATION OF THE

1 AGREEMENT. NOTHING IN A PUBLIC-PRIVATE AGREEMENT SHALL PROHIBIT THE
2 DEPARTMENT FROM CONSTRUCTING, OPERATING, AND MAINTAINING ANY
3 TRANSPORTATION PROJECT THAT IS IN THE DEPARTMENT'S LONG-RANGE PLAN
4 IN EFFECT ON THE DATE THAT PROPOSALS ARE SUBMITTED, OR PROHIBIT ANY
5 MUNICIPALITY, COUNTY, OR OTHER LOCAL AGENCY FROM CONSTRUCTING,
6 OPERATING, AND MAINTAINING ANY TRANSPORTATION PROJECT.

7 (3) A PUBLIC-PRIVATE AGREEMENT MAY PROVIDE FOR THE CHARGING
8 AND COLLECTION OF USER FEES AND ANCILLARY CHARGES FOR THE USE OF A
9 PUBLIC TRANSPORTATION FACILITY. EXCEPT AS OTHERWISE PROVIDED IN
10 THIS SUBSECTION, ONCE USER FEES ARE INITIALLY ESTABLISHED, USER
11 FEES AND ANCILLARY CHARGES SHALL NOT BE INCREASED BY MORE THAN THE
12 CUMULATIVE ANNUAL INCREASES IN THE CONSUMER PRICE INDEX, AS
13 PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS IN THE
14 UNITED STATES DEPARTMENT OF LABOR, AND DESIGNATED IN THE PUBLIC-
15 PRIVATE AGREEMENT WITHOUT WRITTEN APPROVAL OF THE DEPARTMENT. USER
16 FEES AND ANCILLARY CHARGES THAT ARE INTENDED BY THE DEPARTMENT TO
17 APPLY TO LANES MANAGED BY THE LEVEL OF USER FEES TO CONTROL OR
18 MANAGE TRAFFIC VOLUME OR FLOW MAY BE INCREASED BY MORE THAN THE
19 CONSUMER PRICE INDEX, AS PUBLISHED BY THE UNITED STATES BUREAU OF
20 LABOR STATISTICS, AND SPECIFIED IN THE PUBLIC-PRIVATE AGREEMENT. IF
21 A USER FAILS TO PAY THE USER FEE BY PRIOR ARRANGEMENT, AND SEPARATE
22 BILLING IS REQUIRED FOR PAYMENT, A REASONABLE ADMINISTRATIVE FEE
23 MAY BE CHARGED. A USER FEE MAY BE IMPOSED ON A HIGHWAY ONLY IF
24 IMPOSED FOR THE USE OF HIGHWAYS CONSTRUCTED AFTER THE EFFECTIVE
25 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, OR THE USE OF
26 HIGHWAYS WITH EXPANDED CAPACITY BEYOND THE HIGHWAY CAPACITY IN
27 PLACE ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS

1 SECTION. USER FEES AND ANCILLARY CHARGES IMPOSED FOR THE USE OF A
2 PUBLIC TRANSPORTATION FACILITY IN THIS STATE ARE NOT SUBJECT TO
3 REGULATION BY ANY OTHER GOVERNMENTAL AGENCY. NOTHING IN THIS
4 SECTION SHALL BE CONSTRUED TO ALLOW THE CONVERSION OF ANY LANES
5 EXISTING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
6 THIS SECTION INTO TOLLED OR USER-FEE LANES EXCEPT THAT THE
7 DEPARTMENT MAY DETERMINE WHICH LANE OF AN EXISTING HIGHWAY IS
8 DESIGNATED FOR IMPOSITION OF USER FEES IF THE CAPACITY OF THAT
9 HIGHWAY IS EXPANDED.

10 (4) COMPENSATION PAID TO THE DEPARTMENT IN CONNECTION WITH A
11 PUBLIC-PRIVATE AGREEMENT INCLUDING THE DEPARTMENT'S PORTION OF USER
12 FEES AND ANCILLARY CHARGES IMPOSED FOR USE OF A PUBLIC
13 TRANSPORTATION FACILITY SHALL BE USED FOR TRANSPORTATION PURPOSES.

14 (5) IN ACCORDANCE WITH THE TERMS OF A PUBLIC-PRIVATE
15 AGREEMENT, THE DEPARTMENT OR AN INSTRUMENTALITY OF GOVERNMENT SHALL
16 OVERSEE THE ACTIVITIES OF A CONCESSIONAIRE CARRYING OUT THE TERMS
17 OF A PUBLIC-PRIVATE AGREEMENT. A PUBLIC-PRIVATE AGREEMENT MAY
18 PROVIDE FOR THE USE OF ARBITRATION, MEDIATION, OR OTHER ALTERNATIVE
19 DISPUTE RESOLUTION MECHANISM FOR THE RESOLUTION OF DISPUTES BETWEEN
20 THE DEPARTMENT AND A CONCESSIONAIRE.

21 (6) THIS STATE, INCLUDING, BUT NOT LIMITED TO, THE DEPARTMENT,
22 IS NOT LIABLE FOR THE ACTS OR OMISSIONS OF THE CONCESSIONAIRE OR
23 OTHER PARTY TO A PUBLIC-PRIVATE AGREEMENT.

24 (7) A PUBLIC-PRIVATE AGREEMENT MAY PERMIT THE CONDUCT OF
25 COMMERCIAL ACTIVITIES AT A PUBLIC TRANSPORTATION FACILITY IF THE
26 ACTIVITIES ARE RELATED TO THE TRANSPORTATION PURPOSES OF THE
27 FACILITY, TO THE EXTENT NOT RESTRICTED BY APPLICABLE LAW.

1 (8) EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, A PUBLIC-PRIVATE
2 AGREEMENT FOR A PUBLIC TRANSPORTATION FACILITY SHALL IMPOSE ON THE
3 CONCESSIONAIRE THE SAME REQUIREMENTS OF LAW THAT ARE IMPOSED IN
4 CONTRACTS OF THE DEPARTMENT WHEN IT CONTRACTS DIRECTLY FOR THE
5 CONSTRUCTION OR OPERATION OF A PUBLIC TRANSPORTATION FACILITY. A
6 PUBLIC-PRIVATE AGREEMENT SHALL ESTABLISH THE AMOUNTS FOR WHICH THE
7 CONCESSIONAIRE SHALL POST PAYMENT AND PERFORMANCE BONDS OR OTHER
8 SECURITY AS PROVIDED IN THIS SUBSECTION. A PUBLIC-PRIVATE AGREEMENT
9 MAY AUTHORIZE A CONCESSIONAIRE FOR A PUBLIC TRANSPORTATION FACILITY
10 TO PROVIDE A LETTER OF CREDIT IN LIEU OF A PAYMENT OR PERFORMANCE
11 BOND. IF THE DEPARTMENT DETERMINES THAT BONDS OR LETTERS OF CREDIT
12 ARE NOT REASONABLY AVAILABLE IN SUFFICIENT AMOUNTS, THE DEPARTMENT
13 MAY ACCEPT ANOTHER COMMERCIALY REASONABLE FORM OF SECURITY,
14 INCLUDING PARENT CORPORATION GUARANTEES, TO SUPPLEMENT AVAILABLE
15 PAYMENT BONDS, PERFORMANCE BONDS, OR LETTERS OF CREDIT. THE
16 DEPARTMENT SHALL REQUIRE THE POSTING OF SUFFICIENT SECURITY TO
17 FULFILL THE PURPOSES OF A PAYMENT AND PERFORMANCE BOND. IN LIEU OF
18 POSTING BY THE CONCESSIONAIRE, OR IN SUPPLEMENTATION OF THAT
19 POSTING, THE DEPARTMENT MAY ACCEPT BONDS, LETTERS OF CREDIT, AND
20 OTHER SECURITY FROM ENTITIES OTHER THAN THE CONCESSIONAIRE SO LONG
21 AS THE PURPOSES OF A PAYMENT AND PERFORMANCE BOND ARE FULFILLED.

22 (9) THE DEPARTMENT MAY MAKE AND ENTER INTO ALL CONTRACTS AND
23 AGREEMENTS AND TAKE ANY OTHER ACTION NECESSARY OR INCIDENTAL TO THE
24 PERFORMANCE OF ITS DUTIES AND THE EXECUTION OF ITS POWERS UNDER
25 THIS ACT AND A PUBLIC-PRIVATE AGREEMENT.

26 (10) FOR A PUBLIC-PRIVATE AGREEMENT THAT INCLUDES AN
27 OPERATIONS PHASE, THE PUBLIC-PRIVATE AGREEMENT SHALL REQUIRE THAT

1 THE PUBLIC TRANSPORTATION FACILITY TO REVERT FROM THE
2 CONCESSIONAIRE TO THE DEPARTMENT AT THE END OF THE TERM OF THE
3 PUBLIC-PRIVATE AGREEMENT IN A CONDITION SPECIFIED BY THE
4 DEPARTMENT.

5 (11) THE PUBLIC-PRIVATE AGREEMENT SHALL INCLUDE PROVISIONS
6 THAT ADDRESS THE DEPARTMENT'S RIGHTS TO SHARE IN REFINANCING GAINS
7 RECEIVED BY THE CONCESSIONAIRE UNDER THE PUBLIC-PRIVATE AGREEMENT.

8 (12) THE PUBLIC-PRIVATE AGREEMENT SHALL INCLUDE PROVISIONS
9 THAT SPECIFY THE RESTRICTIONS IMPOSED ON THE ABILITY OF THE
10 CONCESSIONAIRE TO SELL OR TRANSFER ITS INTEREST IN THE PUBLIC-
11 PRIVATE AGREEMENT WITHOUT THE CONSENT OF THE DEPARTMENT.

12 (13) A PUBLIC-PRIVATE AGREEMENT SHALL NOT DELEGATE THE POWER
13 TO CONDEMN PROPERTY TO THE CONCESSIONAIRE. A RIGHT OF WAY ACQUIRED
14 THROUGH CONDEMNATION THAT IS USED FOR A PUBLIC TRANSPORTATION
15 FACILITY SHALL BE AND REMAIN PUBLICLY OWNED DURING THE TERM OF A
16 PUBLIC-PRIVATE AGREEMENT.

17 SEC. 7C. UPON APPROVAL BY THE COMMISSION BY RESOLUTION, THE
18 DEPARTMENT MAY CREATE PUBLIC TRANSPORTATION AUTHORITIES AS SEPARATE
19 LEGAL ENTITIES WITHIN THE DEPARTMENT THAT MAY EXERCISE THE POWERS
20 OF THE DEPARTMENT IN REGARD TO PUBLIC-PRIVATE AGREEMENTS UNDER THIS
21 ACT, TO THE EXTENT AUTHORIZED BY AN AGREEMENT BETWEEN THE
22 DEPARTMENT AND THE PUBLIC TRANSPORTATION AUTHORITY. A PUBLIC
23 TRANSPORTATION AUTHORITY IS AN INSTRUMENTALITY OF THIS STATE THAT
24 MAY SUE AND BE SUED AND ENTER INTO CONTRACTS, INCLUDING PUBLIC-
25 PRIVATE AGREEMENTS, TO THE EXTENT AUTHORIZED BY AN AGREEMENT WITH
26 THE DEPARTMENT. THE DEPARTMENT IS NOT LIABLE FOR THE ACTS OR
27 OMISSIONS OF A PUBLIC TRANSPORTATION AUTHORITY, EXCEPT TO THE

1 EXTENT EXPRESSLY AUTHORIZED IN AN AGREEMENT BETWEEN A PUBLIC
2 TRANSPORTATION AUTHORITY AND THE DEPARTMENT. EMPLOYEES OF A PUBLIC
3 TRANSPORTATION AUTHORITY ARE EMPLOYEES OF THIS STATE, AND THE
4 AUTHORITY SHALL COMPLY WITH THE RULES AND REGULATIONS OF THE CIVIL
5 SERVICE COMMISSION. A PUBLIC TRANSPORTATION AUTHORITY IS AN AGENCY
6 OF THIS STATE ENTITLED TO GOVERNMENTAL IMMUNITY UNDER 1964 PA 170,
7 MCL 691.1401 TO 691.1419. THE DEPARTMENT AND A PUBLIC
8 TRANSPORTATION AUTHORITY SHALL COMPLY WITH ALL APPLICABLE STATE AND
9 FEDERAL LAWS AND REGULATIONS, INCLUDING, BUT NOT LIMITED TO,
10 APPLICABLE ENVIRONMENTAL LAWS AND REGULATIONS.

11 SEC. 7D. (1) THE DEPARTMENT MAY SOLICIT PROPOSALS OR RECEIVE
12 UNSOLICITED PROPOSALS FOR A PUBLIC-PRIVATE AGREEMENT AND MAY CHARGE
13 AND USE FEES TO OFFSET THE ADMINISTRATIVE COSTS OF RECEIVING AND
14 EVALUATING PROPOSALS. BEFORE RECEIVING A PROPOSAL, THE DEPARTMENT
15 MAY AGREE TO REIMBURSE A PRIVATE ENTITY FOR DESIGNATED COSTS
16 INCURRED IN THE PREPARATION AND PRESENTATION OF A PROPOSAL IN
17 RETURN FOR THE RIGHT TO USE ANY WORK PRODUCT CONTAINED IN THE
18 PROPOSAL, INCLUDING, BUT NOT LIMITED TO, THE TECHNOLOGIES, METHODS,
19 PROCESSES, AND INFORMATION CONTAINED IN THE MATERIAL SUBMITTED IN
20 CONNECTION WITH THE PROPOSAL. THE DEPARTMENT HAS THE SOLE
21 DISCRETION WHETHER, AND TO WHAT EXTENT, TO CONSIDER AN UNSOLICITED
22 PROPOSAL. BEFORE ENTERING INTO ANY PUBLIC-PRIVATE AGREEMENT FOR A
23 PUBLIC TRANSPORTATION FACILITY PROPOSED BY AN UNSOLICITED PROPOSAL,
24 THE DEPARTMENT MAY AMEND THE PROPOSAL AND SHALL SOLICIT COMPETING
25 PROPOSALS AND ENTER INTO ANY PUBLIC-PRIVATE AGREEMENT USING THE
26 FACTORS LISTED IN SUBSECTION (5).

27 (2) IN SOLICITING OR SELECTING A PRIVATE ENTITY WITH WHICH TO

1 ENTER INTO A PUBLIC-PRIVATE AGREEMENT, THE DEPARTMENT SHALL UTILIZE
2 1 OR MORE OF THE FOLLOWING PROCUREMENT APPROACHES:

3 (A) SEALED BIDDING.

4 (B) SELECTION OF PROPOSALS, WITH OR WITHOUT NEGOTIATIONS,
5 BASED ON QUALIFICATIONS, DEVELOPMENT PROPOSALS, TECHNICAL
6 PROPOSALS, FINANCIAL PROPOSALS, BEST VALUE, OR ANY COMBINATION OF
7 THEM.

8 (C) ANY COMPETITIVE SELECTION PROCESS THAT THE DEPARTMENT
9 DETERMINES TO BE APPROPRIATE OR REASONABLE.

10 (3) THE DEPARTMENT SHALL SELECT A PRIVATE ENTITY OR ENTITIES
11 FOR PARTICIPATION IN A PUBLIC-PRIVATE AGREEMENT USING A COMPETITIVE
12 SELECTION PROCESS TO THE EXTENT PRACTICABLE.

13 (4) BEFORE SELECTING A PROJECT, THE DEPARTMENT SHALL CONSIDER
14 ALL OF THE FOLLOWING FACTORS:

15 (A) THE ABILITY OF THE PUBLIC TRANSPORTATION FACILITY TO
16 IMPROVE SAFETY OR OPERATIONS, REDUCE CONGESTION, REDUCE TRAVEL
17 TIMES, INCREASE CAPACITY, ENHANCE ENVIRONMENTAL QUALITY, PROMOTE
18 ECONOMIC DEVELOPMENT, OR ANY COMBINATION OF THESE OR SIMILAR
19 FACTORS.

20 (B) BENEFITS TO THE PUBLIC.

21 (C) ABILITY TO INCREASE FEDERAL OR OTHER NONSTATE REVENUE TO
22 THIS STATE.

23 (5) THE DEPARTMENT SHALL CONSIDER ALL OF THE FOLLOWING FACTORS
24 IN EVALUATING AND SELECTING A BID OR PROPOSAL TO ENTER INTO A
25 PUBLIC-PRIVATE AGREEMENT:

26 (A) THE PROPOSED COST OF AND FINANCIAL PLAN FOR THE PUBLIC
27 TRANSPORTATION FACILITY.

1 (B) THE GENERAL REPUTATION, QUALIFICATIONS, INDUSTRY
2 EXPERIENCE, SAFETY RECORD, LABOR RECORD, AND FINANCIAL CAPACITY OF
3 THE PRIVATE ENTITY.

4 (C) THE PROPOSED DESIGN, OPERATION, AND FEASIBILITY OF THE
5 PUBLIC TRANSPORTATION FACILITY.

6 (D) TO THE EXTENT PERMITTED BY FEDERAL LAW, THE PROPOSED PLAN
7 OF THE PRIVATE ENTITY TO HIRE INDIVIDUALS AUTHORIZED TO WORK IN THE
8 UNITED STATES FOR WORK RELATING TO THE PUBLIC TRANSPORTATION
9 FACILITY IN THIS STATE.

10 (E) ANY OTHER CRITERIA, INCLUDING PREQUALIFICATION UNDER RULES
11 PROMULGATED BY THE DEPARTMENT OR THROUGH COMPLIANCE WITH 1933 PA
12 170, MCL 123.501 TO 123.508, THAT THE DEPARTMENT CONSIDERS
13 NECESSARY OR APPROPRIATE IN THE BEST INTERESTS OF THIS STATE OR THE
14 PEOPLE OF THIS STATE.

15 (6) THE DEPARTMENT MAY SELECT MULTIPLE PRIVATE ENTITIES WITH
16 WHICH TO ENTER INTO PUBLIC-PRIVATE AGREEMENTS FOR A PUBLIC
17 TRANSPORTATION FACILITY IF IT IS DETERMINED BY THE DEPARTMENT TO BE
18 IN THE PUBLIC INTEREST TO DO SO.

19 (7) THE DEPARTMENT MAY PROMISE TO KEEP TRADE SECRETS OR
20 PROPRIETARY COMMERCIAL OR FINANCIAL INFORMATION PROVIDED BY A
21 PRIVATE ENTITY CONFIDENTIAL ONLY FOR PURPOSES OF SEEKING OR
22 ENTERING INTO A PUBLIC PRIVATE AGREEMENT. UPON RECEIPT OF A
23 SUFFICIENTLY DETAILED REQUEST BY A PRIVATE ENTITY, THE DEPARTMENT
24 SHALL PROVIDE A DESCRIPTION OF THE INFORMATION TO WHICH ITS PROMISE
25 OF CONFIDENTIALITY WILL EXTEND. MATERIAL INCLUDED IN THE
26 DEPARTMENT'S DESCRIPTION IS NOT SUBJECT TO DISCLOSURE UNDER THE
27 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.346.

1 SUBMISSION OF A SOLICITED OR UNSOLICITED PROPOSAL CONSTITUTES
2 CONSENT FOR THE DEPARTMENT TO USE THE INFORMATION AND IDEAS
3 PROVIDED BY A PRIVATE ENTITY FOR A PUBLIC TRANSPORTATION FACILITY
4 OR FOR PURPOSES OF SEEKING OR ENTERING INTO A PUBLIC-PRIVATE
5 AGREEMENT, INCLUDING TO SOLICIT COMPETING PROPOSALS UNLESS THE
6 DEPARTMENT AGREES OTHERWISE IN A WRITING EXECUTED BY THE DEPARTMENT
7 BEFORE THE SUBMISSION.

8 (8) NO ACTION SHALL LIE AGAINST THE DEPARTMENT OR ANOTHER
9 PERSON ACTING IN ACCORDANCE WITH A PUBLIC-PRIVATE AGREEMENT FOR THE
10 USE OF IDEAS AND INFORMATION PROVIDED BY A PRIVATE ENTITY FOR
11 PURPOSES OF SEEKING OR ENTERING INTO A PUBLIC-PRIVATE AGREEMENT.

12 (9) THE DEPARTMENT SHALL PERFORM A COST-BENEFIT ANALYSIS
13 INCLUDING A RISK TRANSFER OR ALLOCATION ASSESSMENT TO DETERMINE
14 WHETHER A PROPOSED PUBLIC-PRIVATE AGREEMENT IS THE MOST
15 ECONOMICALLY BENEFICIAL WAY FOR THIS STATE TO PERFORM THE PROPOSED
16 PROJECT. THE DEPARTMENT SHALL CHOOSE AN APPROPRIATE METHODOLOGY TO
17 UTILIZE IN THE COST-BENEFIT ANALYSIS AND SHALL STATE THE
18 ASSUMPTIONS USED IN THE COST-BENEFIT ANALYSIS. THE COST-BENEFIT
19 ANALYSIS SHALL INCLUDE ALL NECESSARY MONITORING AND OVERSIGHT OF
20 ANY PRIVATE ENTITY BY A PUBLIC ENTITY. THE DEPARTMENT SHALL PUBLISH
21 THE RESULTS OF THE ANALYSIS ON ITS WEBSITE. THE COMMISSION SHALL
22 NOT APPROVE A PUBLIC-PRIVATE AGREEMENT UNDER SECTION 7(1)(C) UNLESS
23 IT DETERMINES THAT THE PUBLIC-PRIVATE AGREEMENT IS THE MOST
24 ECONOMICALLY BENEFICIAL WAY FOR THIS STATE TO PERFORM THE PROJECT,
25 INCLUDING CONSIDERATION OF WHETHER THE AGREEMENT REDUCES RISK TO
26 THIS STATE, INCLUDING FINANCIAL RISKS, COMPARED TO OTHER OPTIONS
27 AND FINANCING ARRANGEMENTS.

1 SEC. 7E. (1) WHETHER USED BY THE DEPARTMENT, ANOTHER
2 INSTRUMENTALITY OF GOVERNMENT, OR A PRIVATE ENTITY UNDER A PUBLIC-
3 PRIVATE AGREEMENT, A PUBLIC TRANSPORTATION FACILITY, INCLUDING, BUT
4 NOT LIMITED TO, REAL PROPERTY AND TANGIBLE PERSONAL PROPERTY USED
5 EXCLUSIVELY WITH A PUBLIC TRANSPORTATION FACILITY, THAT IS OWNED BY
6 THE DEPARTMENT OR ANOTHER INSTRUMENTALITY OF GOVERNMENT IS EXEMPT
7 FROM ALL AD VALOREM PROPERTY TAXES AND ALL ASSESSMENTS LEVIED
8 AGAINST PROPERTY BY THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS
9 STATE TO THE SAME EXTENT THAT THE PROPERTY OWNED BY THE DEPARTMENT
10 OR INSTRUMENTALITY OF GOVERNMENT WOULD OTHERWISE BE EXEMPT FROM AD
11 VALOREM PROPERTY TAXES AND ASSESSMENTS.

12 (2) NO PERSON SHALL BY REASON OF THE USE OF MOTOR FUEL WITHIN
13 THE LIMITS OF A PUBLIC TRANSPORTATION FACILITY AUTHORIZED BY A
14 PUBLIC-PRIVATE AGREEMENT BE EXEMPT FROM OR ELIGIBLE FOR A REFUND OF
15 A MOTOR FUEL TAX IMPOSED BY THIS STATE OR A POLITICAL SUBDIVISION
16 OF THIS STATE.

17 (3) SUBJECT TO APPROVAL FROM THE COMMISSION AND COMPLIANCE
18 WITH APPLICABLE FEDERAL LAWS, THE DEPARTMENT HAS EXCLUSIVE
19 AUTHORITY TO DETERMINE WHERE AND WHETHER TO ESTABLISH A PUBLIC
20 TRANSPORTATION FACILITY AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT
21 AND THE SCOPE AND NATURE OF THE FACILITY.

22 (4) REVENUE ATTRIBUTABLE TO A PUBLIC TRANSPORTATION FACILITY
23 AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT THAT IS PAYABLE TO THE
24 DEPARTMENT SHALL BE DEPOSITED IN THE STATE TRUNK LINE FUND
25 ESTABLISHED IN SECTION 11 OF 1951 PA 51, MCL 247.661, THE
26 COMPREHENSIVE TRANSPORTATION FUND ESTABLISHED IN SECTION 10B OF
27 1951 PA 51, MCL 247.660B, OR THE STATE AERONAUTICS FUND ESTABLISHED

1 IN SECTION 34 OF THE AERONAUTICS CODE OF THE STATE OF MICHIGAN,
2 1945 PA 327, MCL 259.34, AS INDICATED BY THE NATURE OF THE PUBLIC
3 TRANSPORTATION FACILITY AND PROVIDED IN THE PUBLIC-PRIVATE
4 AGREEMENT.

5 SEC. 7F. (1) THE DEPARTMENT MAY ISSUE AND SELL BONDS OR NOTES
6 FOR THE PURPOSE OF PROVIDING FUNDS TO CARRY OUT THE PROVISIONS OF
7 THIS ACT WITH RESPECT TO THE DEVELOPMENT, ACQUISITION,
8 CONSTRUCTION, FINANCING, MAINTENANCE, OR OPERATION OF A PUBLIC
9 TRANSPORTATION FACILITY PROVIDED FOR BY A PUBLIC-PRIVATE AGREEMENT
10 OR THE REFUNDING OF ANY BONDS OR NOTES, TOGETHER WITH ANY COSTS
11 ASSOCIATED WITH THE TRANSACTION.

12 (2) ANY BOND OR NOTE ISSUED UNDER SUBSECTION (1) DOES NOT
13 CONSTITUTE A PLEDGE OF THE FAITH AND CREDIT OR INDEBTEDNESS OF THIS
14 STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE WITHIN THE MEANING
15 OR APPLICATION OF ANY CONSTITUTIONAL PROVISION OR LIMITATION. A
16 BOND OR NOTE ISSUED UNDER SUBSECTION (1) IS PAYABLE AS TO BOTH
17 PRINCIPAL AND INTEREST SOLELY FROM REVENUES GENERATED FROM USE OF
18 THE PUBLIC TRANSPORTATION FACILITY AUTHORIZED BY THE PUBLIC-PRIVATE
19 AGREEMENT, THE PROCEEDS OF BONDS OR NOTES SOLD TO FINANCE THE
20 REFUNDING OF THE OUTSTANDING BONDS OR NOTES, IF ANY, OR INVESTMENT
21 EARNINGS ON THE PROCEEDS OF THE BONDS OR NOTES.

22 (3) THE DEPARTMENT MAY RETAIN SERVICES AND ENTER INTO ANY
23 CONTRACTS THAT ARE NECESSARY OR USEFUL FOR THE ISSUANCE AND SALE OF
24 BONDS, NOTES, OR OTHER FINANCIAL INSTRUMENTS UNDER THIS SECTION.

25 (4) FOR THE PURPOSE OF FINANCING A PUBLIC TRANSPORTATION
26 FACILITY, THIS STATE, THE DEPARTMENT, THE CONCESSIONAIRE, OR, TO
27 THE EXTENT PERMITTED BY LAW, AN INSTRUMENTALITY OF GOVERNMENT MAY

1 APPLY FOR, OBTAIN, ISSUE, AND USE PRIVATE ACTIVITY BONDS OR OTHER
2 FINANCIAL INSTRUMENTS AVAILABLE UNDER ANY STATE OR FEDERAL LAW OR
3 PROGRAM. AN INSTRUMENTALITY OF GOVERNMENT MAY ACT AS A CONDUIT
4 ISSUER AND TRANSFER THE PROCEEDS OF PRIVATE ACTIVITY BONDS OR
5 SIMILAR FINANCIAL INSTRUMENTS TO A CONCESSIONAIRE IF AUTHORIZED BY
6 A PUBLIC-PRIVATE AGREEMENT. THE BONDS OR INSTRUMENTS SHALL NOT
7 PLEDGE THE FULL FAITH AND CREDIT OF THIS STATE OR ANY POLITICAL
8 SUBDIVISION OF THIS STATE AND SHALL NOT BE A DEBT OF THIS STATE OR
9 ANY POLITICAL SUBDIVISION OF THIS STATE.

10 (5) THIS SECTION DOES NOT LIMIT AN INSTRUMENTALITY OF
11 GOVERNMENT'S AUTHORITY TO ISSUE BONDS OR OTHER FINANCIAL
12 INSTRUMENTS FOR TRANSPORTATION PROJECTS UNDER OTHER LAWS. A PUBLIC
13 TRANSPORTATION FACILITY MAY BE FINANCED WITH FUNDS PROVIDED OR
14 RAISED UNDER OTHER LAWS, INCLUDING, BUT NOT LIMITED TO, LAWS
15 AUTHORIZING THE SALE OF BONDS.

16 SEC. 7G. (1) THE DEPARTMENT MAY APPLY FOR AND ACCEPT FROM THE
17 UNITED STATES OR ANY OF ITS AGENCIES, INCLUDING, BUT NOT LIMITED
18 TO, A FEDERAL INFRASTRUCTURE BANK, FUNDS THAT ARE AVAILABLE TO THE
19 DEPARTMENT FOR CARRYING OUT A PUBLIC-PRIVATE AGREEMENT, WHETHER THE
20 FUNDS ARE MADE AVAILABLE BY GRANT, LOAN, LINE OF CREDIT, LOAN
21 GUARANTEE, OR OTHER FINANCIAL ASSISTANCE.

22 (2) THE DEPARTMENT MAY ASSENT TO ANY FEDERAL REQUIREMENTS,
23 CONDITIONS, OR TERMS OF ANY FEDERAL FUNDING ACCEPTED UNDER THIS
24 SECTION OTHER THAN A PLEDGE OF THE FULL FAITH AND CREDIT OF THIS
25 STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE OR ANOTHER
26 REQUIREMENT, CONDITION, OR TERM PROHIBITED BY THE STATE
27 CONSTITUTION OF 1963.

1 (3) THE DEPARTMENT MAY ENTER INTO AGREEMENTS OR OTHER
2 ARRANGEMENTS WITH THE UNITED STATES OR ANY OF ITS AGENCIES AS
3 NECESSARY FOR IMPLEMENTING A PUBLIC-PRIVATE AGREEMENT.

4 (4) THE DEPARTMENT MAY ACCEPT FROM ANY SOURCE, AND USE FOR
5 SUPPORTING A PUBLIC TRANSPORTATION FACILITY AUTHORIZED BY A PUBLIC-
6 PRIVATE AGREEMENT, ANY GRANT, DONATION, GIFT, OR OTHER FORM OF
7 CONVEYANCE OF LAND, MONEY, OTHER REAL OR PERSONAL PROPERTY, OR
8 OTHER ITEM OF VALUE. A PUBLIC TRANSPORTATION FACILITY AUTHORIZED BY
9 A PUBLIC-PRIVATE AGREEMENT MAY BE FINANCED IN WHOLE OR IN PART BY
10 CONTRIBUTION OF ANY FUNDS OR PROPERTY MADE BY ANY PERSON OR ENTITY.

11 (5) THE DEPARTMENT MAY COMBINE FEDERAL, STATE, LOCAL, AND
12 PRIVATE FUNDS TO FINANCE A PUBLIC TRANSPORTATION FACILITY
13 AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT.

14 SEC. 7H. (1) ALL LAW ENFORCEMENT OFFICERS OF THIS STATE AND
15 LOCAL UNITS OF GOVERNMENT IN WHICH ALL OR PART OF A PUBLIC
16 TRANSPORTATION FACILITY AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT IS
17 LOCATED SHALL HAVE THE SAME POWERS AND JURISDICTION WITHIN THE
18 LIMITS OF THE PUBLIC TRANSPORTATION FACILITY AS THEY HAVE IN THEIR
19 RESPECTIVE AREAS OF JURISDICTION TO ENFORCE TRAFFIC AND MOTOR
20 VEHICLE LAWS. AUTHORIZED EMERGENCY VEHICLES AND OCCUPANTS OF
21 AUTHORIZED EMERGENCY VEHICLES SHALL BE AFFORDED ACCESS TO A PUBLIC
22 TRANSPORTATION FACILITY WHILE IN THE PERFORMANCE OF AN OFFICIAL
23 DUTY WITHOUT THE PAYMENT OF A USER FEE OR OTHER CHARGE. AS USED IN
24 THIS SUBSECTION, "AUTHORIZED EMERGENCY VEHICLE" MEANS THAT TERM AS
25 DEFINED IN SECTION 2 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL
26 257.2.

27 (2) PUNISHMENT FOR VIOLATIONS OF TRAFFIC AND MOTOR VEHICLE

1 LAWS WITHIN THE LIMITS OF A PUBLIC TRANSPORTATION FACILITY
2 AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT SHALL BE AS GENERALLY
3 PRESCRIBED BY LAW.

4 (3) THE PUBLIC-PRIVATE AGREEMENT SHALL INCLUDE PROVISIONS
5 RELATING TO THE PERMITTED RETENTION AND USE BY THE CONCESSIONAIRE
6 OF COLLECTED DATA AND CUSTOMER INFORMATION AND SHALL PROHIBIT THE
7 SALE OR USE OF THAT DATA AND INFORMATION FOR COMMERCIAL PURPOSES
8 UNRELATED TO THE USE OF THE PUBLIC TRANSPORTATION FACILITY.

9 MEASURES AND DEVICES TO RECORD USERS OF PUBLIC TRANSPORTATION
10 FACILITIES MAY BE UTILIZED TO FACILITATE THE COLLECTION OF USER
11 FEES. A RECORDING OF THE USE OF A PUBLIC TRANSPORTATION FACILITY
12 SHALL NOT BE USED OR DISCLOSED EXCEPT UNDER 1 OR MORE OF THE
13 FOLLOWING CIRCUMSTANCES:

14 (A) IN ENFORCEMENT AND COLLECTION PROCEEDINGS UNDER THIS ACT
15 TO ESTABLISH THE USE AND FAILURE TO PAY THE USER FEE IMPOSED FOR
16 USE OF THAT PUBLIC TRANSPORTATION FACILITY.

17 (B) USE BY A POLICE OFFICER WHILE LAWFULLY ENFORCING HIS OR
18 HER DUTIES AS A POLICE OFFICER.

19 (C) USE TO CREATE STATISTICAL REPORTS ON USE OF A PUBLIC
20 TRANSPORTATION FACILITY THAT DO NOT DISCLOSE THE IDENTITY OF
21 SPECIFIC USERS OF THE FACILITY.

22 (4) A PERSON WHO FAILS TO PAY A USER FEE IMPOSED FOR USE OF A
23 PUBLIC TRANSPORTATION FACILITY IS RESPONSIBLE FOR A CIVIL
24 INFRACTION AND SHALL PAY \$50.00 AS A CIVIL FINE. IN ADDITION, THE
25 PERSON SHALL PAY THE OPERATOR OF THE PUBLIC TRANSPORTATION FACILITY
26 2 TIMES THE AMOUNT OF THE USER FEE. IF THAT SUM REMAINS UNPAID TO
27 THE OPERATOR OF THE PUBLIC TRANSPORTATION FACILITY FOR 180 DAYS

1 AFTER THE PERSON'S USE OF THE PUBLIC TRANSPORTATION FACILITY, THE
2 DEPARTMENT, AN AUTHORITY, AN INSTRUMENTALITY OF GOVERNMENT, OR A
3 PRIVATE ENTITY AUTHORIZED TO DO SO BY THE DEPARTMENT, MAY BRING A
4 CIVIL ACTION AGAINST THE PERSON TO COLLECT THE UNPAID CHARGES IN A
5 COURT HAVING JURISDICTION. IF THE CIVIL ACTION RESULTS IN A
6 JUDGMENT FOR UNPAID CHARGES, THE DEFENDANT SHALL ALSO BE REQUIRED
7 TO REIMBURSE THE PLAINTIFF FOR ALL FILING FEES INCURRED BY THE
8 PLAINTIFF PLUS \$500.00 IN COMPENSATION FOR THE COSTS OF BRINGING
9 THE CIVIL ACTION.

10 (5) DURING THE PERIOD THAT A PERSON OWES AND HAS FAILED TO PAY
11 CHARGES, FEES, AND COSTS UNDER SUBSECTION (3) OR (4), THE PERSON
12 AND A MOTOR VEHICLE USED BY THE PERSON MAY BE BARRED FROM USING THE
13 PUBLIC TRANSPORTATION FACILITY.

14 (6) EXCEPT AS PROVIDED IN SECTION 675B OF THE MICHIGAN VEHICLE
15 CODE, 1949 PA 300, MCL 257.675B, INVOLVING LEASED VEHICLES, PROOF
16 THAT A PARTICULAR VEHICLE USED A PUBLIC TRANSPORTATION FACILITY
17 WITHOUT PAYMENT OF THE APPLICABLE USER FEE, TOGETHER WITH PROOF
18 FROM THE DEPARTMENT OF STATE OF THE NAME OF THE VEHICLE'S
19 REGISTERED OWNER, CREATES A PRESUMPTION THAT THE VEHICLE'S
20 REGISTERED OWNER WAS THE PERSON WHO USED THE PUBLIC TRANSPORTATION
21 FACILITY, WHO FAILED TO PAY THE USER FEE, AND WHO IS PRIMA FACIE
22 RESPONSIBLE FOR THE UNPAID CHARGES. IF THE CONDITIONS OF SECTION
23 675B OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.675B, ARE
24 SATISFIED, THE LESSEE OR RENTER OF A MOTOR VEHICLE AND NOT THE
25 LEASED VEHICLE OWNER IS THE PERSON LIABLE UNDER THIS SECTION, FOR
26 WHICH PURPOSES THE ENTITY THAT GIVES NOTICE OF UNPAID CHARGES TO
27 THE VEHICLE'S REGISTERED OWNER SHALL BE GIVEN THE NOTICE THAT WOULD

1 OTHERWISE BE GIVEN TO THE CLERK OF THE COURT OR PARKING VIOLATIONS
 2 BUREAU UNDER SECTION 675B OF THE MICHIGAN VEHICLE CODE, 1949 PA
 3 300, MCL 257.675B.

4 (7) THE OWNER OF A VEHICLE ALLEGED TO HAVE USED A PUBLIC
 5 TRANSPORTATION FACILITY WITHOUT PAYING AN APPLICABLE USER FEE MAY
 6 ASSERT AS AN AFFIRMATIVE DEFENSE THAT THE VEHICLE IN QUESTION, AT
 7 THE TIME OF THE USE OF THE PUBLIC TRANSPORTATION FACILITY, WAS IN
 8 THE POSSESSION OF A PERSON WHOM THE OWNER HAD NOT KNOWINGLY
 9 PERMITTED TO OPERATE THE VEHICLE.

10 SEC. 7I. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF
 11 FEDERAL FUNDS ARE USED FOR A PUBLIC TRANSPORTATION FACILITY, THE
 12 APPLICABLE FEDERAL LAW OR RULES CONTROL IF THEY CONFLICT WITH THIS
 13 ACT.

14 Sec. 10. Documents and instruments of any kind authorized to
 15 be issued or executed by the commission shall be issued or executed
 16 in the name of the "Michigan state ~~highway~~ **TRANSPORTATION**
 17 commission" by the ~~chairman~~ **CHAIRPERSON** of the commission, or to
 18 the extent expressly authorized by bylaw or resolution, by the vice
 19 ~~chairman~~ **CHAIRPERSON**, other member, **THE** director, or other
 20 subordinate. Documents or instruments ~~which~~ **THAT** convey interests
 21 or rights in land shall be executed by the ~~chairman or vice~~
 22 ~~chairman and the director or a deputy director~~ **AN EMPLOYEE OF THE**
 23 **DEPARTMENT** designated by the ~~commission~~ **DIRECTOR**.