

# HOUSE BILL No. 4940

October 6, 2015, 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

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

16 Sec. 1. As used in this act:

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

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

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

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

25 (E) "INSTRUMENTALITY OF GOVERNMENT" MEANS A PUBLIC ENTITY IN  
 26 THE UNITED STATES CREATED OR EMPOWERED TO CARRY OUT FUNCTIONS  
 27 COMMONLY CARRIED OUT BY UNITS OF GOVERNMENT, PUBLIC AGENCIES, OR

1 PUBLIC AUTHORITIES. INSTRUMENTALITY OF GOVERNMENT INCLUDES A PUBLIC  
2 AGENCY OR PUBLIC AUTHORITY CREATED BY THE GOVERNMENT OF ANOTHER  
3 STATE OF THE UNITED STATES.

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

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

20 (H) "PUBLIC TRANSPORTATION FACILITY" MEANS ANY NEW OR EXISTING  
21 DOMESTIC HIGHWAY, LANE, ROAD, BRIDGE, TUNNEL, OVERPASS, RAMP,  
22 INTERCHANGE, FERRY, AIRPORT, VEHICLE PARKING FACILITY, VEHICLE  
23 TRANSPORTATION FACILITY, PORT FACILITY, LOCKS FACILITY, RAIL  
24 FACILITY, INTERMODAL OR OTHER PUBLIC TRANSIT FACILITY, OR ANY OTHER  
25 EQUIPMENT, ROLLING STOCK, SITE, OR FACILITY USED IN THE  
26 TRANSPORTATION OF PERSONS, GOODS, SUBSTANCES, VEHICLES,  
27 INFORMATION, OR MATTER OF ANY KIND, AND ANY BUILDING, STRUCTURE,

1    **PARKING AREA, APPURTENANCE, OR OTHER PROPERTY NECESSARY OR**  
2    **DESIRABLE FOR THE FACILITY.**

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

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

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

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

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

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

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

24        **(G) PURCHASE SERVICES IN ACCORDANCE WITH APPLICABLE CIVIL**  
25   **SERVICE RULES.**

26        **(H) ACQUIRE INTERESTS IN REAL AND PERSONAL PROPERTY, INCLUDING**  
27   **BY CONDEMNATION.**

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

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

6       (K) **ENTER INTO PUBLIC-PRIVATE AGREEMENTS UNDER SECTION 7B**  
7 **SUBJECT TO THE APPROVAL OF THE LEGISLATURE.**

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

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

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

17       (b) The establishment of transportation policies for the  
18 guidance and direction of the director.

19       (2) The commission may do the following:

20       (a) Delegate to any member of the commission, the director, or  
21 any subordinate, any powers, other than the power to establish  
22 policy, vested in the commission as it considers necessary and  
23 proper. ~~and permit the director to delegate any powers delegated~~  
24 ~~to him or her by the commission.~~

25       (b) ~~Acquire,~~ **AUTHORIZE THE DEPARTMENT TO ACQUIRE**, own, and  
26 hold **INTERESTS IN** real and personal property in the name of ~~the~~  
27 **THIS** state or the ~~commission~~ **DEPARTMENT** and **TO** sell, lease or

1 otherwise dispose of, or encumber, **ANY INTERESTS IN** the same in  
 2 connection with, and in furtherance of, its duties and the purposes  
 3 of this act, **SUBJECT TO RESOLUTIONS OF THE COMMISSION.**

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

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

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

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

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

21 (c) ~~"Contractor"~~ **"CONSTRUCTION CONTRACTOR"** means an  
 22 ~~individual, sole proprietorship, partnership, corporation, joint~~  
 23 ~~venture, or other legal~~ **A PERSON OR** entity, other than the ~~THIS~~  
 24 state, or an agency or department of the ~~THIS~~ state, who is a party  
 25 to a construction contract.

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

1           (2) A construction contract may provide for partial payments  
2 to be made periodically to a **CONSTRUCTION** contractor. The  
3 department may establish specifications regarding the retention of  
4 a portion of the total amount earned under the construction  
5 contract.

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

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

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

18           (a) That the escrow agent shall promptly invest all of the  
19 escrowed funds.

20           (b) That the escrow agent shall hold the escrowed funds until  
21 receipt of notice from the department. Upon receipt of a notice of  
22 release from the department, the escrow agent shall promptly remit  
23 the designated portion of escrowed funds to the **CONSTRUCTION**  
24 contractor involved in the contract. Upon receipt of a notice of  
25 overpayment or default of the contract, the escrow agent shall  
26 promptly remit the designated portion of escrowed funds to the  
27 department.

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

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

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

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

24 **(2) A PUBLIC-PRIVATE AGREEMENT SHALL PROVIDE FOR THE TERMS OF**  
25 **THE USE AND OPERATION OF A PUBLIC TRANSPORTATION FACILITY BY A**  
26 **CONCESSIONAIRE FOR A PERIOD THE DEPARTMENT DETERMINES IS NECESSARY**  
27 **FOR THE DEVELOPMENT AND FINANCING OF A PUBLIC TRANSPORTATION**



1 FACILITY AND THE ECONOMIC FEASIBILITY OF THE PUBLIC-PRIVATE  
2 AGREEMENT. THE PUBLIC-PRIVATE AGREEMENT MAY INCLUDE A LEASE,  
3 LICENSE, RIGHT OF ENTRY, OR OTHER INSTRUMENT FOR THE PUBLIC  
4 TRANSPORTATION FACILITY AS THE DEPARTMENT DETERMINES IS IN THE BEST  
5 INTEREST OF THE PUBLIC. THE AGREEMENT MAY PROVIDE FOR AN INITIAL  
6 OPERATING TERM NOT EXCEEDING 50 YEARS FROM THE DATE OF COMPLETION  
7 OF CONSTRUCTION OR COMMENCEMENT OF COLLECTING USER FEES, IF USER  
8 FEES ARE COLLECTED, UNLESS A LONGER TERM IS REQUIRED FOR THE  
9 ECONOMIC FEASIBILITY OF THE PUBLIC-PRIVATE AGREEMENT AS DETERMINED  
10 BY THE DEPARTMENT AND APPROVED BY THE LEGISLATURE. THE AGREEMENT  
11 SHALL PROVIDE THAT THE OWNERSHIP OF A PUBLIC TRANSPORTATION  
12 FACILITY WITHIN THIS STATE SHALL BE VESTED IN THE DEPARTMENT OR A  
13 PUBLIC ENTITY CREATED UNDER MICHIGAN LAW, AND THAT TITLE TO THE  
14 PUBLIC TRANSPORTATION FACILITY SHALL NOT BE ENCUMBERED. NO  
15 PROVISION OF A PUBLIC-PRIVATE AGREEMENT SHALL ALLOW THE PUBLIC TO  
16 BE DEPRIVED OF THE USE AND BENEFIT OF A PUBLIC TRANSPORTATION  
17 FACILITY EXCEPT AS NECESSARY TO IMPLEMENT USER FEES OR ANCILLARY  
18 CHARGES AUTHORIZED BY THIS SECTION, TO REGULATE THE LEVEL OR  
19 CHARACTER OF PERMISSIBLE USES OF THE PUBLIC TRANSPORTATION  
20 FACILITY, TO ADDRESS ISSUES OF PUBLIC SAFETY OR SECURITY, OR TO  
21 MAINTAIN, REPAIR, OR IMPROVE THE PUBLIC TRANSPORTATION FACILITY. A  
22 PUBLIC-PRIVATE AGREEMENT SHALL PROVIDE FOR THE TERMINATION OF THE  
23 AGREEMENT. NOTHING IN A PUBLIC-PRIVATE AGREEMENT SHALL PROHIBIT THE  
24 DEPARTMENT FROM CONSTRUCTING, OPERATING, AND MAINTAINING ANY  
25 TRANSPORTATION PROJECT THAT IS IN THE DEPARTMENT'S LONG-RANGE PLAN  
26 IN EFFECT ON THE DATE THAT PROPOSALS ARE SUBMITTED, OR PROHIBIT ANY  
27 MUNICIPALITY, COUNTY, OR OTHER LOCAL AGENCY FROM CONSTRUCTING,

1 OPERATING, AND MAINTAINING ANY TRANSPORTATION PROJECT.

2 (3) A PUBLIC-PRIVATE AGREEMENT MAY PROVIDE FOR THE CHARGING  
3 AND COLLECTION OF USER FEES AND ANCILLARY CHARGES FOR THE USE OF A  
4 PUBLIC TRANSPORTATION FACILITY. EXCEPT AS OTHERWISE PROVIDED IN  
5 THIS SUBSECTION, ONCE USER FEES ARE INITIALLY ESTABLISHED, USER  
6 FEES AND ANCILLARY CHARGES SHALL NOT BE INCREASED BY MORE THAN THE  
7 CUMULATIVE ANNUAL INCREASES IN THE CONSUMER PRICE INDEX, AS  
8 PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS IN THE  
9 UNITED STATES DEPARTMENT OF LABOR, AND DESIGNATED IN THE PUBLIC-  
10 PRIVATE AGREEMENT WITHOUT WRITTEN APPROVAL OF THE DEPARTMENT. USER  
11 FEES AND ANCILLARY CHARGES THAT ARE INTENDED BY THE DEPARTMENT TO  
12 APPLY TO LANES MANAGED BY THE LEVEL OF USER FEES TO CONTROL OR  
13 MANAGE TRAFFIC VOLUME OR FLOW MAY BE INCREASED BY MORE THAN THE  
14 CONSUMER PRICE INDEX, AS PUBLISHED BY THE UNITED STATES BUREAU OF  
15 LABOR STATISTICS, AND SPECIFIED IN THE PUBLIC-PRIVATE AGREEMENT. IF  
16 A USER FAILS TO PAY THE USER FEE BY PRIOR ARRANGEMENT, AND SEPARATE  
17 BILLING IS REQUIRED FOR PAYMENT, A REASONABLE ADMINISTRATIVE FEE  
18 MAY BE CHARGED. A USER FEE MAY BE IMPOSED ON A HIGHWAY ONLY IF  
19 IMPOSED FOR THE USE OF HIGHWAYS CONSTRUCTED AFTER THE EFFECTIVE  
20 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, OR THE USE OF  
21 HIGHWAYS WITH EXPANDED CAPACITY BEYOND THE HIGHWAY CAPACITY IN  
22 PLACE ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
23 SECTION. USER FEES AND ANCILLARY CHARGES IMPOSED FOR THE USE OF A  
24 PUBLIC TRANSPORTATION FACILITY IN THIS STATE ARE NOT SUBJECT TO  
25 REGULATION BY ANY OTHER GOVERNMENTAL AGENCY. NOTHING IN THIS  
26 SECTION ALLOWS THE CONVERSION OF ANY LANES EXISTING ON THE  
27 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION INTO

1 TOLLED OR USER-FEE LANES EXCEPT THAT THE DEPARTMENT MAY DETERMINE  
2 WHICH LANE OF AN EXISTING HIGHWAY IS DESIGNATED FOR IMPOSITION OF  
3 USER FEES IF THE CAPACITY OF THAT HIGHWAY IS EXPANDED.

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

8 (5) IN ACCORDANCE WITH THE TERMS OF A PUBLIC-PRIVATE  
9 AGREEMENT, THE DEPARTMENT OR AN INSTRUMENTALITY OF GOVERNMENT SHALL  
10 OVERSEE THE ACTIVITIES OF A CONCESSIONAIRE CARRYING OUT THE TERMS  
11 OF A PUBLIC-PRIVATE AGREEMENT. A PUBLIC-PRIVATE AGREEMENT MAY  
12 PROVIDE FOR THE USE OF ARBITRATION, MEDIATION, OR OTHER ALTERNATIVE  
13 DISPUTE RESOLUTION MECHANISM FOR THE RESOLUTION OF DISPUTES BETWEEN  
14 THE DEPARTMENT AND A CONCESSIONAIRE.

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

18 (7) A PUBLIC-PRIVATE AGREEMENT MAY PERMIT THE CONDUCT OF  
19 COMMERCIAL ACTIVITIES AT A PUBLIC TRANSPORTATION FACILITY IF THE  
20 ACTIVITIES ARE RELATED TO THE TRANSPORTATION PURPOSES OF THE  
21 FACILITY, TO THE EXTENT NOT RESTRICTED BY APPLICABLE LAW.

22 (8) EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, A PUBLIC-PRIVATE  
23 AGREEMENT FOR A PUBLIC TRANSPORTATION FACILITY SHALL IMPOSE ON THE  
24 CONCESSIONAIRE THE SAME REQUIREMENTS OF LAW THAT ARE IMPOSED IN  
25 CONTRACTS OF THE DEPARTMENT WHEN IT CONTRACTS DIRECTLY FOR THE  
26 CONSTRUCTION OR OPERATION OF A PUBLIC TRANSPORTATION FACILITY. A  
27 PUBLIC-PRIVATE AGREEMENT SHALL ESTABLISH THE AMOUNTS FOR WHICH THE

1 CONCESSIONAIRE SHALL POST PAYMENT AND PERFORMANCE BONDS OR OTHER  
2 SECURITY AS PROVIDED IN THIS SUBSECTION. A PUBLIC-PRIVATE AGREEMENT  
3 MAY AUTHORIZE A CONCESSIONAIRE FOR A PUBLIC TRANSPORTATION FACILITY  
4 TO PROVIDE A LETTER OF CREDIT IN LIEU OF A PAYMENT OR PERFORMANCE  
5 BOND. IF THE DEPARTMENT DETERMINES THAT BONDS OR LETTERS OF CREDIT  
6 ARE NOT REASONABLY AVAILABLE IN SUFFICIENT AMOUNTS, THE DEPARTMENT  
7 MAY ACCEPT ANOTHER COMMERCIALY REASONABLE FORM OF SECURITY,  
8 INCLUDING PARENT CORPORATION GUARANTEES, TO SUPPLEMENT AVAILABLE  
9 PAYMENT BONDS, PERFORMANCE BONDS, OR LETTERS OF CREDIT. THE  
10 DEPARTMENT SHALL REQUIRE THE POSTING OF SUFFICIENT SECURITY TO  
11 FULFILL THE PURPOSES OF A PAYMENT AND PERFORMANCE BOND. IN LIEU OF  
12 POSTING BY THE CONCESSIONAIRE, OR IN SUPPLEMENTATION OF THAT  
13 POSTING, THE DEPARTMENT MAY ACCEPT BONDS, LETTERS OF CREDIT, AND  
14 OTHER SECURITY FROM ENTITIES OTHER THAN THE CONCESSIONAIRE SO LONG  
15 AS THE PURPOSES OF A PAYMENT AND PERFORMANCE BOND ARE FULFILLED.

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

20 (10) FOR A PUBLIC-PRIVATE AGREEMENT THAT INCLUDES AN  
21 OPERATIONS PHASE, THE PUBLIC-PRIVATE AGREEMENT SHALL REQUIRE THAT  
22 THE PUBLIC TRANSPORTATION FACILITY REVERT FROM THE CONCESSIONAIRE  
23 TO THE DEPARTMENT AT THE END OF THE TERM OF THE PUBLIC-PRIVATE  
24 AGREEMENT IN A CONDITION SPECIFIED BY THE DEPARTMENT.

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

1           (12) THE PUBLIC-PRIVATE AGREEMENT SHALL INCLUDE PROVISIONS  
2 THAT SPECIFY THE RESTRICTIONS IMPOSED ON THE ABILITY OF THE  
3 CONCESSIONAIRE TO SELL OR TRANSFER ITS INTEREST IN THE PUBLIC-  
4 PRIVATE AGREEMENT WITHOUT THE CONSENT OF THE DEPARTMENT.

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

10          SEC. 7C. UPON APPROVAL BY THE COMMISSION BY RESOLUTION, THE  
11 DEPARTMENT MAY CREATE PUBLIC TRANSPORTATION AUTHORITIES AS SEPARATE  
12 LEGAL ENTITIES WITHIN THE DEPARTMENT THAT MAY EXERCISE THE POWERS  
13 OF THE DEPARTMENT IN REGARD TO PUBLIC-PRIVATE AGREEMENTS UNDER THIS  
14 ACT, TO THE EXTENT AUTHORIZED BY AN AGREEMENT BETWEEN THE  
15 DEPARTMENT AND THE PUBLIC TRANSPORTATION AUTHORITY. A PUBLIC  
16 TRANSPORTATION AUTHORITY IS AN INSTRUMENTALITY OF THIS STATE THAT  
17 MAY SUE AND BE SUED AND ENTER INTO CONTRACTS, INCLUDING PUBLIC-  
18 PRIVATE AGREEMENTS, TO THE EXTENT AUTHORIZED BY AN AGREEMENT WITH  
19 THE DEPARTMENT. THE DEPARTMENT IS NOT LIABLE FOR THE ACTS OR  
20 OMISSIONS OF A PUBLIC TRANSPORTATION AUTHORITY, EXCEPT TO THE  
21 EXTENT EXPRESSLY AUTHORIZED IN AN AGREEMENT BETWEEN A PUBLIC  
22 TRANSPORTATION AUTHORITY AND THE DEPARTMENT. EMPLOYEES OF A PUBLIC  
23 TRANSPORTATION AUTHORITY ARE EMPLOYEES OF THIS STATE, AND THE  
24 AUTHORITY SHALL COMPLY WITH THE RULES AND REGULATIONS OF THE CIVIL  
25 SERVICE COMMISSION. A PUBLIC TRANSPORTATION AUTHORITY IS AN AGENCY  
26 OF THIS STATE ENTITLED TO GOVERNMENTAL IMMUNITY UNDER 1964 PA 170,  
27 MCL 691.1401 TO 691.1419. THE DEPARTMENT AND A PUBLIC

1 TRANSPORTATION AUTHORITY SHALL COMPLY WITH ALL APPLICABLE STATE AND  
2 FEDERAL LAWS AND REGULATIONS, INCLUDING, BUT NOT LIMITED TO,  
3 APPLICABLE ENVIRONMENTAL LAWS AND REGULATIONS.

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

20 (2) IN SOLICITING OR SELECTING A PRIVATE ENTITY WITH WHICH TO  
21 ENTER INTO A PUBLIC-PRIVATE AGREEMENT, THE DEPARTMENT SHALL UTILIZE  
22 1 OR MORE OF THE FOLLOWING PROCUREMENT APPROACHES:

23 (A) SEALED BIDDING.

24 (B) SELECTION OF PROPOSALS, WITH OR WITHOUT NEGOTIATIONS,  
25 BASED ON QUALIFICATIONS, DEVELOPMENT PROPOSALS, TECHNICAL  
26 PROPOSALS, FINANCIAL PROPOSALS, BEST VALUE, OR ANY COMBINATION OF  
27 THEM.

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

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

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

8 (A) THE ABILITY OF THE PUBLIC TRANSPORTATION FACILITY TO  
9 IMPROVE SAFETY OR OPERATIONS, REDUCE CONGESTION, REDUCE TRAVEL  
10 TIMES, INCREASE CAPACITY, ENHANCE ENVIRONMENTAL QUALITY, PROMOTE  
11 ECONOMIC DEVELOPMENT, OR ANY COMBINATION OF THESE OR SIMILAR  
12 FACTORS.

13 (B) BENEFITS TO THE PUBLIC.

14 (C) ABILITY TO INCREASE FEDERAL OR OTHER NONSTATE REVENUE TO  
15 THIS STATE.

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

19 (A) THE PROPOSED COST OF AND FINANCIAL PLAN FOR THE PUBLIC  
20 TRANSPORTATION FACILITY.

21 (B) THE GENERAL REPUTATION, QUALIFICATIONS, INDUSTRY  
22 EXPERIENCE, SAFETY RECORD, LABOR RECORD, AND FINANCIAL CAPACITY OF  
23 THE PRIVATE ENTITY.

24 (C) THE PROPOSED DESIGN, OPERATION, AND FEASIBILITY OF THE  
25 PUBLIC TRANSPORTATION FACILITY.

26 (D) TO THE EXTENT PERMITTED BY FEDERAL LAW, THE PROPOSED PLAN  
27 OF THE PRIVATE ENTITY TO HIRE INDIVIDUALS AUTHORIZED TO WORK IN THE

1 UNITED STATES FOR WORK RELATING TO THE PUBLIC TRANSPORTATION  
2 FACILITY IN THIS STATE.

3 (E) ANY OTHER CRITERIA, INCLUDING PREQUALIFICATION UNDER RULES  
4 PROMULGATED BY THE DEPARTMENT OR THROUGH COMPLIANCE WITH 1933 PA  
5 170, MCL 123.501 TO 123.508, THAT THE DEPARTMENT CONSIDERS  
6 NECESSARY OR APPROPRIATE IN THE BEST INTERESTS OF THIS STATE OR THE  
7 PEOPLE OF THIS STATE.

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

12 (7) THE DEPARTMENT MAY PROMISE TO KEEP TRADE SECRETS OR  
13 PROPRIETARY COMMERCIAL OR FINANCIAL INFORMATION PROVIDED BY A  
14 PRIVATE ENTITY CONFIDENTIAL ONLY FOR PURPOSES OF SEEKING OR  
15 ENTERING INTO A PUBLIC PRIVATE AGREEMENT. UPON RECEIPT OF A  
16 SUFFICIENTLY DETAILED REQUEST BY A PRIVATE ENTITY, THE DEPARTMENT  
17 SHALL PROVIDE A DESCRIPTION OF THE INFORMATION TO WHICH ITS PROMISE  
18 OF CONFIDENTIALITY WILL EXTEND. MATERIAL INCLUDED IN THE  
19 DEPARTMENT'S DESCRIPTION IS NOT SUBJECT TO DISCLOSURE UNDER THE  
20 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.  
21 SUBMISSION OF A SOLICITED OR UNSOLICITED PROPOSAL CONSTITUTES  
22 CONSENT FOR THE DEPARTMENT TO USE THE INFORMATION AND IDEAS  
23 PROVIDED BY A PRIVATE ENTITY FOR A PUBLIC TRANSPORTATION FACILITY  
24 OR FOR PURPOSES OF SEEKING OR ENTERING INTO A PUBLIC-PRIVATE  
25 AGREEMENT, INCLUDING TO SOLICIT COMPETING PROPOSALS UNLESS THE  
26 DEPARTMENT AGREES OTHERWISE IN A WRITING EXECUTED BY THE DEPARTMENT  
27 BEFORE THE SUBMISSION.



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

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

21 SEC. 7E. (1) WHETHER USED BY THE DEPARTMENT, ANOTHER  
22 INSTRUMENTALITY OF GOVERNMENT, OR A PRIVATE ENTITY UNDER A PUBLIC-  
23 PRIVATE AGREEMENT, A PUBLIC TRANSPORTATION FACILITY, INCLUDING, BUT  
24 NOT LIMITED TO, REAL PROPERTY AND TANGIBLE PERSONAL PROPERTY USED  
25 EXCLUSIVELY WITH A PUBLIC TRANSPORTATION FACILITY, THAT IS OWNED BY  
26 THE DEPARTMENT OR ANOTHER INSTRUMENTALITY OF GOVERNMENT IS EXEMPT  
27 FROM ALL AD VALOREM PROPERTY TAXES AND ALL ASSESSMENTS LEVIED

1 AGAINST PROPERTY BY THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS  
2 STATE TO THE SAME EXTENT THAT THE PROPERTY OWNED BY THE DEPARTMENT  
3 OR INSTRUMENTALITY OF GOVERNMENT WOULD OTHERWISE BE EXEMPT FROM AD  
4 VALOREM PROPERTY TAXES AND ASSESSMENTS.

5 (2) NO PERSON SHALL BY REASON OF THE USE OF MOTOR FUEL WITHIN  
6 THE LIMITS OF A PUBLIC TRANSPORTATION FACILITY AUTHORIZED BY A  
7 PUBLIC-PRIVATE AGREEMENT BE EXEMPT FROM OR ELIGIBLE FOR A REFUND OF  
8 A MOTOR FUEL TAX IMPOSED BY THIS STATE OR A POLITICAL SUBDIVISION  
9 OF THIS STATE.

10 (3) SUBJECT TO APPROVAL FROM THE COMMISSION AND COMPLIANCE  
11 WITH APPLICABLE FEDERAL LAWS, THE DEPARTMENT HAS EXCLUSIVE  
12 AUTHORITY TO DETERMINE WHETHER AND WHERE TO ESTABLISH A PUBLIC  
13 TRANSPORTATION FACILITY AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT  
14 AND THE SCOPE AND NATURE OF THE FACILITY.

15 (4) REVENUE ATTRIBUTABLE TO A PUBLIC TRANSPORTATION FACILITY  
16 AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT THAT IS PAYABLE TO THE  
17 DEPARTMENT SHALL BE DEPOSITED IN THE STATE TRUNK LINE FUND  
18 ESTABLISHED IN SECTION 11 OF 1951 PA 51, MCL 247.661, THE  
19 COMPREHENSIVE TRANSPORTATION FUND ESTABLISHED IN SECTION 10B OF  
20 1951 PA 51, MCL 247.660B, OR THE STATE AERONAUTICS FUND ESTABLISHED  
21 IN SECTION 34 OF THE AERONAUTICS CODE OF THE STATE OF MICHIGAN,  
22 1945 PA 327, MCL 259.34, AS INDICATED BY THE NATURE OF THE PUBLIC  
23 TRANSPORTATION FACILITY AND PROVIDED IN THE PUBLIC-PRIVATE  
24 AGREEMENT.

25 SEC. 7F. (1) THE DEPARTMENT MAY ISSUE AND SELL BONDS OR NOTES  
26 FOR THE PURPOSE OF PROVIDING FUNDS TO CARRY OUT THE PROVISIONS OF  
27 THIS ACT WITH RESPECT TO THE DEVELOPMENT, ACQUISITION,

1 CONSTRUCTION, FINANCING, MAINTENANCE, OR OPERATION OF A PUBLIC  
2 TRANSPORTATION FACILITY PROVIDED FOR BY A PUBLIC-PRIVATE AGREEMENT  
3 OR THE REFUNDING OF ANY BONDS OR NOTES, TOGETHER WITH ANY COSTS  
4 ASSOCIATED WITH THE TRANSACTION.

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

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

18 (4) FOR THE PURPOSE OF FINANCING A PUBLIC TRANSPORTATION  
19 FACILITY, THIS STATE, THE DEPARTMENT, THE CONCESSIONAIRE, OR, TO  
20 THE EXTENT PERMITTED BY LAW, AN INSTRUMENTALITY OF GOVERNMENT MAY  
21 APPLY FOR, OBTAIN, ISSUE, AND USE PRIVATE ACTIVITY BONDS OR OTHER  
22 FINANCIAL INSTRUMENTS AVAILABLE UNDER ANY STATE OR FEDERAL LAW OR  
23 PROGRAM. AN INSTRUMENTALITY OF GOVERNMENT MAY ACT AS A CONDUIT  
24 ISSUER AND TRANSFER THE PROCEEDS OF PRIVATE ACTIVITY BONDS OR  
25 SIMILAR FINANCIAL INSTRUMENTS TO A CONCESSIONAIRE IF AUTHORIZED BY  
26 A PUBLIC-PRIVATE AGREEMENT. THE BONDS OR INSTRUMENTS SHALL NOT  
27 PLEDGE THE FULL FAITH AND CREDIT OF THIS STATE OR ANY POLITICAL

1 SUBDIVISION OF THIS STATE AND SHALL NOT BE A DEBT OF THIS STATE OR  
2 ANY POLITICAL SUBDIVISION OF THIS STATE.

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

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

15 (2) THE DEPARTMENT MAY ASSENT TO ANY FEDERAL REQUIREMENTS,  
16 CONDITIONS, OR TERMS OF ANY FEDERAL FUNDING ACCEPTED UNDER THIS  
17 SECTION OTHER THAN A PLEDGE OF THE FULL FAITH AND CREDIT OF THIS  
18 STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE OR ANOTHER  
19 REQUIREMENT, CONDITION, OR TERM PROHIBITED BY THE STATE  
20 CONSTITUTION OF 1963.

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

24 (4) THE DEPARTMENT MAY ACCEPT FROM ANY SOURCE, AND USE FOR  
25 SUPPORTING A PUBLIC TRANSPORTATION FACILITY AUTHORIZED BY A PUBLIC-  
26 PRIVATE AGREEMENT, ANY GRANT, DONATION, GIFT, OR OTHER FORM OF  
27 CONVEYANCE OF LAND, MONEY, OTHER REAL OR PERSONAL PROPERTY, OR

1 OTHER ITEM OF VALUE. A PUBLIC TRANSPORTATION FACILITY AUTHORIZED BY  
2 A PUBLIC-PRIVATE AGREEMENT MAY BE FINANCED IN WHOLE OR IN PART BY  
3 CONTRIBUTION OF ANY FUNDS OR PROPERTY MADE BY ANY PERSON OR ENTITY.

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

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

20 (2) PUNISHMENT FOR VIOLATIONS OF TRAFFIC AND MOTOR VEHICLE  
21 LAWS WITHIN THE LIMITS OF A PUBLIC TRANSPORTATION FACILITY  
22 AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT SHALL BE AS GENERALLY  
23 PRESCRIBED BY LAW.

24 (3) THE PUBLIC-PRIVATE AGREEMENT SHALL INCLUDE PROVISIONS  
25 RELATING TO THE PERMITTED RETENTION AND USE BY THE CONCESSIONAIRE  
26 OF COLLECTED DATA AND CUSTOMER INFORMATION AND SHALL PROHIBIT THE  
27 SALE OR USE OF THAT DATA AND INFORMATION FOR COMMERCIAL PURPOSES

1 UNRELATED TO THE USE OF THE PUBLIC TRANSPORTATION FACILITY.  
2 MEASURES AND DEVICES TO RECORD USERS OF PUBLIC TRANSPORTATION  
3 FACILITIES MAY BE UTILIZED TO FACILITATE THE COLLECTION OF USER  
4 FEES. A RECORDING OF THE USE OF A PUBLIC TRANSPORTATION FACILITY  
5 SHALL NOT BE USED OR DISCLOSED EXCEPT UNDER 1 OR MORE OF THE  
6 FOLLOWING CIRCUMSTANCES:

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

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

12 (C) USE TO CREATE STATISTICAL REPORTS ON USE OF A PUBLIC  
13 TRANSPORTATION FACILITY THAT DO NOT DISCLOSE THE IDENTITY OF  
14 SPECIFIC USERS OF THE FACILITY.

15 (4) A PERSON WHO FAILS TO PAY A USER FEE IMPOSED FOR USE OF A  
16 PUBLIC TRANSPORTATION FACILITY IS RESPONSIBLE FOR A CIVIL  
17 INFRACTION AND SHALL PAY \$50.00 AS A CIVIL FINE. IN ADDITION, THE  
18 PERSON SHALL PAY THE OPERATOR OF THE PUBLIC TRANSPORTATION FACILITY  
19 2 TIMES THE AMOUNT OF THE USER FEE. IF THAT SUM REMAINS UNPAID TO  
20 THE OPERATOR OF THE PUBLIC TRANSPORTATION FACILITY FOR 180 DAYS  
21 AFTER THE PERSON'S USE OF THE PUBLIC TRANSPORTATION FACILITY, THE  
22 DEPARTMENT, AN AUTHORITY, AN INSTRUMENTALITY OF GOVERNMENT, OR A  
23 PRIVATE ENTITY AUTHORIZED TO DO SO BY THE DEPARTMENT, MAY BRING A  
24 CIVIL ACTION AGAINST THE PERSON TO COLLECT THE UNPAID CHARGES IN A  
25 COURT HAVING JURISDICTION. IF THE CIVIL ACTION RESULTS IN A  
26 JUDGMENT FOR UNPAID CHARGES, THE DEFENDANT SHALL ALSO BE REQUIRED  
27 TO REIMBURSE THE PLAINTIFF FOR ALL FILING FEES INCURRED BY THE

1 PLAINTIFF PLUS \$500.00 IN COMPENSATION FOR THE COSTS OF BRINGING  
2 THE CIVIL ACTION.

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

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

24 (7) THE OWNER OF A VEHICLE ALLEGED TO HAVE USED A PUBLIC  
25 TRANSPORTATION FACILITY WITHOUT PAYING AN APPLICABLE USER FEE MAY  
26 ASSERT AS AN AFFIRMATIVE DEFENSE THAT THE VEHICLE IN QUESTION, AT  
27 THE TIME OF THE USE OF THE PUBLIC TRANSPORTATION FACILITY, WAS IN

1 THE POSSESSION OF A PERSON WHOM THE OWNER HAD NOT KNOWINGLY  
2 PERMITTED TO OPERATE THE VEHICLE.

3 SEC. 7I. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF  
4 FEDERAL FUNDS ARE USED FOR A PUBLIC TRANSPORTATION FACILITY, THE  
5 APPLICABLE FEDERAL LAW OR RULES CONTROL IF THEY CONFLICT WITH THIS  
6 ACT.

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

17 Enacting section 1. This amendatory act takes effect 90 days  
18 after the date it is enacted into law.