

Act No. 471
Public Acts of 2018
Approved by the Governor
December 26, 2018
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December 27, 2018
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Senator Green

ENROLLED SENATE BILL No. 995

AN ACT 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 sections 10 and 11h (MCL 247.660 and 247.661h), section 10 as amended and section 11h as added by 2016 PA 246.

The People of the State of Michigan enact:

Sec. 10. (1) A fund to be known as the Michigan transportation fund is established in the state treasury as a separate fund. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Except as provided in this act, no other money, whether appropriated from the general fund of this state or any other source, shall be deposited in the Michigan transportation fund. Except as otherwise provided in this section, the legislature shall appropriate money for the necessary expenses incurred in the administration and enforcement of the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170, the motor carrier act, 1933 PA 254, MCL 475.1 to 479.42, and sections 801 to 810 of the Michigan vehicle code, 1949 PA 300, MCL 257.801 to 257.810. Money

appropriated for necessary expenses shall be based upon established cost allocation methodology that reflects actual costs. Appropriations for the necessary expenses incurred by the department of state in administration and enforcement of sections 801 to 810 of the Michigan vehicle code, 1949 PA 300, MCL 257.801 to 257.810, shall be made from the Michigan transportation fund and from money in the transportation administration collection fund created in section 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b. Appropriations from the Michigan transportation fund for the necessary expenses incurred by the department of state in administration and enforcement of sections 801 to 810 of the Michigan vehicle code, 1949 PA 300, MCL 257.801 to 257.810, shall not exceed \$20,000,000.00 per state fiscal year. Except as provided in section 51d of the income tax act of 1967, 1967 PA 281, MCL 206.51d, all money in the Michigan transportation fund is apportioned and appropriated in the following manner:

(a) Not more than \$3,000,000.00 as may be annually appropriated each fiscal year to the state trunk line fund for subsequent deposit in the rail grade crossing account.

(b) Not more than \$3,000,000.00 as may be annually appropriated each fiscal year to the state trunk line fund for subsequent deposit in the grade crossing surface account.

(c) Not more than \$3,000,000.00 each year to the local bridge fund established in subsection (4) for the purpose of payment of the principal, interest, and redemption premium on any notes or bonds issued by the state transportation commission under former section 11b or subsection (9).

(d) Except as otherwise provided in this subdivision and subject to section 11h, \$2,000,000.00 each year of the revenue from 3 cents of the tax levied under section 8(1)(a) of the motor fuel tax act, 2000 PA 403, MCL 207.1008, to the local agency wetland mitigation board fund created in section 11h.

(e) Except as otherwise provided in this subdivision, \$5,000,000.00 each year of the revenue from 3 cents of the tax levied under section 8(1)(a) of the motor fuel tax act, 2000 PA 403, MCL 207.1008, to the movable bridge fund created in section 11g, with the remainder to the state trunk line fund, county road commissions, and cities and villages in the percentages provided in subdivision (l). The department shall annually adjust the amount allocated under this subdivision by an amount equal to the annual increase in the Detroit Consumer Price Index for the preceding year.

(f) One-half of the revenue from 1 cent of the tax levied under section 8(1)(a) of the motor fuel tax act, 2000 PA 403, MCL 207.1008, to the state trunk line fund for the repair of state bridges under section 11, and 1/2 of the revenue from 1 cent of the tax levied under section 8(1)(a) of the motor fuel tax act, 2000 PA 403, MCL 207.1008, to the local bridge fund created in subsection (4) for distribution only to cities, villages, and county road commissions.

(g) \$50,000,000.00 to the state trunk line fund for debt service costs on state of Michigan projects.

(h) Ten percent to the comprehensive transportation fund for the purposes described in section 10e.

(i) \$5,000,000.00 to the local bridge fund established in subsection (4) for distribution only to the local bridge advisory board, the regional bridge councils, cities, villages, and county road commissions.

(j) \$36,775,000.00 to the state trunk line fund for subsequent deposit in the transportation economic development fund, with first priority for allocation to debt service on bonds issued to fund transportation economic development fund projects. In addition, \$3,500,000.00 is appropriated from the Michigan transportation fund to the state trunk line fund for subsequent deposit in the transportation economic development fund to be used for economic development road projects in any of the targeted industries described in section 9(1)(a) of 1987 PA 231, MCL 247.909.

(k) Not less than \$33,000,000.00 as may be annually appropriated each fiscal year to the local program fund created in section 11e.

(l) The balance of the Michigan transportation fund as follows, after deduction of the amounts appropriated in subdivisions (a) to (k):

(i) 39.1% to the state trunk line fund for the purposes described in section 11.

(ii) 39.1% to the county road commissions of this state.

(iii) 21.8% to the cities and villages of this state.

(2) The money appropriated under this section shall be used for the purposes as provided in this act and any other applicable act. Subject to the requirements of section 9b, the department shall develop programs in conjunction with the Michigan Chamber of Commerce and the Michigan Minority Supplier Development Council to assist small businesses, including those located in enterprise zones and those located in empowerment zones as determined under federal law, as defined by law in becoming qualified to bid.

(3) Thirty-one and one-half percent of the money appropriated to this state from the federal government under 23 USC 157, commonly known as minimum guarantee funds, shall be allocated to the transportation economic development fund, if the allocation is consistent with federal law. This money shall be distributed 16-1/2% for development projects for rural counties as defined by law and 15% for capacity improvement or advanced traffic management systems in urban counties as defined by law. Federal money allocated for distribution under this section is eligible for obligation and use by all recipients as provided in the moving ahead for progress in the 21st century act, Public Law 112-141.

(4) A fund to be known as the local bridge fund is established in the state treasury as a separate fund. The money appropriated to the local bridge fund and the interest accruing to that fund shall be expended for the local bridge program. The purpose of the fund is to provide financial assistance to highway authorities for the preservation, improvement, or reconstruction of existing bridges or for the construction of bridges to replace existing bridges in whole or part. The money in the local bridge fund is not subject to section 12(15) or 13(5). The local bridge advisory board is created and shall consist of 6 voting members appointed by the state transportation commission and 2 nonvoting members appointed by the department. The board shall include 3 members from the County Road Association of Michigan, 1 member who represents counties with populations 65,000 or greater, 1 member who represents counties with populations greater than 30,000 and less than 65,000, and 1 member who represents counties with populations of 30,000 or less. Three members shall be appointed from the Michigan Municipal League, 1 member who represents cities with a population 75,000 or greater, 1 member who represents cities with a population less than 75,000, and 1 member who represents villages. Each organization with voting rights shall submit a list of nominees in each population category to the state transportation commission. The state transportation commission shall make the appointments from the lists submitted under this subsection. Voting members shall be appointed for 2 years. The chairperson of the board shall be selected from among the voting members of the board. In addition to the 2 nonvoting members, the department shall provide qualified administrative staff and qualified technical assistance to the board.

(5) No less than 5% and no more than 15% of the money received in the local bridge fund may be used for critical repair of large bridges and emergencies as determined by the local bridge advisory board. Money remaining after the money allocated for critical large bridge repair and emergencies is deducted shall be distributed by the board to the regional bridge councils created under this section. One regional council shall be formed for each department of transportation region as those regions exist on October 1, 2004. The regional councils shall consist of 2 members of the County Road Association of Michigan from counties in the region, 2 members of the Michigan Municipal League from cities and villages in the region, and 1 member of the department in each region. The members of the department are nonvoting members and shall provide qualified administrative staff and qualified technical assistance to the regional councils.

(6) Money in the local bridge fund after deduction of the amounts set aside for critical repair of large bridges and emergency repairs shall be distributed among the regional bridge councils according to all of the following ratios, which shall be assigned a weight expressed as a percentage as determined by the board, with each ratio receiving no greater than a 50% weight and no less than a 25% weight:

(a) A ratio with a numerator that is the total number of local bridges in the region and a denominator that is the total number of local bridges in this state.

(b) A ratio with a numerator that is the total local bridge deck area in the region and a denominator that is the total local bridge deck area in this state.

(c) A ratio with a numerator that is the total amount of structurally deficient local bridge deck area in the region and a denominator that is the total amount of structurally deficient local bridge deck area in this state.

(7) The regional bridge councils shall allocate the money received from the board for the preservation, improvement, and reconstruction of existing bridges or for the construction of bridges to replace existing bridges in whole or in part in each region.

(8) Each January, the department shall submit a report to the chair and the minority vice-chair of the appropriations committees of the senate and the house of representatives, and to the standing committees on transportation of the senate and the house of representatives, on all of the following activities for the previous state fiscal year:

(a) A listing of how much money was dedicated for emergency and large bridge repair.

(b) A listing of what emergency and large bridge repair projects were funded.

(c) The actual weights used in the calculation required under subsection (6).

(d) A listing of the total money distributed to each region.

(e) A listing of the specific projects that were funded under subsection (7).

(9) The state transportation commission shall borrow money and issue notes or bonds in an amount of not less than \$30,000,000.00 to supplement the funding provided for the local bridge program under subsection (5). The bonds or notes issued under this subsection may be issued by the commission for any purpose for which other local bridge money may be used under this section. The bonds or notes authorized by this subsection shall be issued by resolution of the state transportation commission consistent with the requirements of section 18b.

(10) The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, governing the administration of the local bridge program. The rules shall set forth the eligibility criteria for financial assistance under the program and other matters related to the program that the department considers

necessary and desirable. The department shall take into consideration the availability of federal aid and other financial resources of the highway authority responsible for the bridge, the importance of the bridge to the highway, road, or street network, and the condition of the existing bridge.

(11) The revenue appropriated to the local bridge fund under subsection (1)(e) shall be distributed only to the local bridge advisory board, the regional bridge councils, cities, villages, and county road commissions.

(12) The regional bridge councils shall determine what bridge projects are selected for funding from the local bridge fund created in subsection (4) and shall make a list of selected projects available to interested parties in the region. A determination that a bridge project is selected for funding in a given fiscal year is not approval to disburse the money.

(13) A county road commission, city, or village may implement a bridge project if the bridge project has been selected for funding and is included in the appropriate regional bridge council's current multiyear bridge plan for the local bridge program but the regional bridge council has not allocated money to the bridge project for the fiscal year that the bridge project is on the current multiyear bridge plan. A county road commission, city, or village may borrow money to implement a project that has been selected for funding and is included in the appropriate regional bridge council's current multiyear bridge plan but has not been allocated money by the regional bridge council. Based on available local bridge money, when a bridge project that was implemented with borrowed money is allocated funding in a subsequent fiscal year, the funding shall only be used to repay the amount approved by the multiyear bridge plan when the money was borrowed. To be eligible for repayment of the amount borrowed, a bridge project that has been implemented with borrowed money shall be administered through the department's local bridge program.

Sec. 11h. (1) The local agency wetland mitigation board fund is established in the state treasury as a separate fund. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(2) The money appropriated to the local agency wetland mitigation board fund and the interest accruing to that fund shall be expended for the local agency wetland mitigation board program. The balance of the fund shall not exceed \$8,000,000.00 at the beginning of a fiscal year, less the amount of funds that have been obligated but not yet expended. The money in the local agency wetland mitigation board fund is not subject to section 12(15).

(3) The local agency wetland mitigation bank advisory board is created and shall consist of the following 9 members:

(a) One voting member appointed by the County Road Association of Michigan from a county with a population greater than 400,000.

(b) One voting member appointed by the County Road Association of Michigan from a county with a population greater than 65,000 but no more than 400,000.

(c) One voting member appointed by the County Road Association of Michigan from a county with a population of less than 65,000.

(d) One voting member who shall be an engineer appointed jointly by the County Road Association of Michigan and the Michigan Municipal League.

(e) One voting member appointed by the Michigan Municipal League from a city with a population of more than 70,000.

(f) One voting member appointed by the Michigan Municipal League from a city with a population of 70,000 or less.

(g) One voting member appointed by the Michigan Municipal League from a village.

(h) Two nonvoting members appointed by the department and the department of environmental quality.

(4) Beginning on the effective date of the amendatory act that added this subsection, the local agency wetland mitigation advisory board is created and shall consist of the following 7 members:

(a) Four voting members from road agencies appointed jointly by the County Road Association of Michigan and the Michigan Municipal League.

(b) One voting member who shall be an engineer appointed jointly by the County Road Association of Michigan and the Michigan Municipal League.

(c) Two nonvoting members appointed by the department and the department of environmental quality.

(5) The members first appointed to the local agency wetland mitigation bank advisory board under subsection (3) shall be appointed no later than October 1, 2015. The members first appointed to the local agency wetland mitigation advisory board under subsection (4) shall be appointed no later than April 1, 2019.

(6) Members of the board shall serve for terms of 2 years or until a successor is appointed, whichever is later.

(7) If a vacancy occurs on the board, the person that appointed the vacating member shall make an appointment for the unexpired term in the same manner as the original appointment.

(8) A member of the board may be removed for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(9) The first meeting of the board shall be called by the member appointed by the department under subsection (4)(c). At the first meeting, the board shall elect from among its voting members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the board shall meet at least quarterly.

(10) A majority of the voting members of the board constitute a quorum for the transaction of business at a meeting of the board. A majority of the members present and serving are required for official action of the board.

(11) A board member shall serve without compensation, but may receive reimbursement for necessary travel and expenses consistent with applicable law and rules and procedures of the civil service commission and department of technology, management, and budget or local road agency policies, subject to available funding. The board may employ a part-time or full-time manager or engineer or contract with a person or firm to perform professional, technical, or administrative assistance or legal counsel. The board shall determine the duties of a person or firm employed under this subsection, and shall require the manager and the board to retain insurances.

(12) The business that the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(13) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(14) The 2 nonvoting members of the board, the department, and the department of environmental quality shall provide qualified administrative staff and qualified technical assistance to the board as necessary.

(15) The local agency wetland mitigation program shall provide funds to local road agencies for 1 or more of the following:

- (a) Complete engineering and design for a wetland mitigation site.
- (b) Purchase of land for a wetland mitigation site.
- (c) Construction of a wetland mitigation site.
- (d) Monitoring and maintenance necessary to ensure that the performance standards are or will be met.
- (e) Obtaining conservation easements in perpetuity and maintenance of endowment funds to manage wetland mitigation sites.

(f) Funding for a wetland mitigation site established before September 22, 2016.

(g) Purchasing wetland mitigation bank credits from an established wetland mitigation bank approved by the department of environmental quality to meet a local agency's wetland mitigation permit requirements.

(16) Not more than 20% of a wetland mitigation site may be sold to the private sector, and any revenues generated from that sale shall be deposited into the local agency wetland program fund.

(17) The board may approve the use of local agency wetland mitigation funds for other activities needed to establish a wetland mitigation site, a pre-mitigation wetland area or wetland preservation site, or other mitigation as permitted by law upon a demonstrated need by a local road agency.

(18) An application for funds from the local agency wetland mitigation program shall be made on a form approved by the board and shall contain the information required by the board. An application for funds under this section may be made at any time determined by the board.

(19) The board shall establish a review process for considering funding applications under this section. No later than 180 days after receiving a funding application under this section, the board shall notify the applicant in writing whether the application is approved or rejected. If the board fails to notify an applicant in writing whether an application is approved or rejected within 180 days after receiving the funding application, the application shall be considered approved. Prior to releasing local agency wetland mitigation program funds, the board shall enter into an agreement with the funding recipient.

(20) For each year in which the board receives funding applications, the board shall report by October 1 to the standing committees of the senate and the house of representatives with primary jurisdiction over issues pertaining to transportation and natural resources and the environment and to the senate and house of representatives appropriations committees on the utilization of funds from the local agency wetland mitigation board fund. The report shall include, at a minimum, all of the following:

- (a) The number of funding applications received under this section.
- (b) The name of each local road agency applying for funding, and whether each application was approved or denied.
- (c) The amount of local match for each award under this section.
- (d) The individual and annual cumulative amount of funds awarded, including an identification of the purpose of all funds awarded.

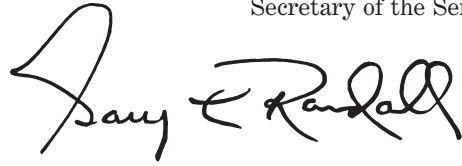
(21) Beginning on April 2, 2019, the local agency wetland mitigation bank advisory board created in subsection (3) is dissolved.

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor