

**SUBSTITUTE FOR
HOUSE BILL NO. 4966**

A bill to amend 1951 PA 51, entitled

"An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to promote safe and efficient travel for motor vehicle drivers, bicyclists, pedestrians, and other legal users of roads, streets, and highways; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state



transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, local bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts,"

by amending section 13 (MCL 247.663), as amended by 2015 PA 175.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 13. (1) The amount distributed to cities and villages
 2 ~~shall~~**must** be returned to the treasurers of the cities and villages
 3 in the manner, for the purposes, and under the terms and conditions
 4 specified in this section. The amount received by a newly
 5 incorporated municipality ~~shall~~**must** be in place of any other
 6 direct distribution of money from the Michigan transportation fund.
 7 The population of a newly incorporated municipality as determined



1 under this section ~~shall~~**must** be added to the total population of
2 all incorporated cities and villages in ~~the~~**this** state in computing
3 the amounts to be returned under this section to each municipality
4 in the state. Major street mileage, local street mileage, and
5 equivalent major mileage, if applicable, ~~shall~~**must** be determined
6 by the department before the next month for which distribution is
7 made following the effective date of incorporation of a newly
8 incorporated municipality.

9 (2) From the amount available for distribution to cities and
10 villages during each December, an amount equal to 0.7% of the total
11 amount returned to all cities and villages under subsections (3)
12 and (4) during the previous calendar year ~~shall~~**must** be withheld.
13 The amount withheld ~~shall~~**must** be used to partially reimburse
14 cities and villages located in counties that are eligible for snow
15 removal funds ~~pursuant to~~**under** section 12a and that have costs for
16 winter maintenance on major and local streets that are greater than
17 the statewide average. The distributions ~~shall~~**must** be made
18 annually during February and ~~shall~~**must** be calculated separately
19 for the major and local street systems but may be paid in a
20 combined warrant. The distribution to a city or village ~~shall~~**must**
21 be equal to 1/2 of its winter maintenance expenditures after
22 deducting the product of its total earnings under subsections (3)
23 and (4) multiplied by 2 times the average municipal winter
24 maintenance factor. Winter maintenance expenditures ~~shall~~**must** be
25 determined from the street financial reports for the most current
26 fiscal years ending before July 1. A city or village that does not
27 submit a street financial report for the fiscal year ending before
28 July 1 by the subsequent December 31 is ineligible for the winter
29 maintenance payment that is to be based on that street financial



report. The department shall determine the average municipal winter maintenance factor annually by dividing the total expenditures of all cities and villages on winter maintenance of streets and highways by the total amount earned by all cities and villages under subsections (3) and (4) during the 12 months. If the sum of the distributions to be made under this subsection exceeds the amount withheld, the distributions to each eligible city and village ~~shall~~**must** be reduced proportionately. If the sum is less than the amount withheld, the balance ~~shall~~**must** be added to the amount available for distribution under subsections (3) and (4) during the next month. The distributions ~~shall be~~**are** for use on the major and local street systems respectively and ~~shall be~~**are** subject to the same provisions as money returned under subsections (3) and (4).

(3) Seventy-five percent of the remaining amount to be returned to the cities and villages, after deducting the amounts withheld ~~pursuant to~~**under** subsection (2), ~~shall~~**must** be returned 60% in the same proportion that the population of each bears to the total population of all cities and villages, and 40% in the same proportion that the equivalent major mileage in each bears to the total equivalent major mileage in all cities and villages. The amount returned under this subsection ~~shall~~**must** be used by each city and village for the following purposes in the following order of priority:

(a) For the payment of contributions required to be made by a city or village under the provisions of contracts previously entered into under 1941 PA 205, MCL 252.51 to 252.64, that have been previously pledged for the payment of the principal and interest on bonds issued under that act; or for the payment of the



1 principal and interest upon bonds issued by a city or village
2 ~~pursuant to~~ **under** 1952 PA 175, MCL 247.701 to 247.707.

3 (b) Payment of obligations of the city or village on highway
4 projects undertaken by the city or village jointly with the
5 department.

6 (c) For the payment of principal and interest ~~upon~~ **on** loans
7 received ~~pursuant to~~ **under** section 11(5), to the extent other money
8 has not been made available for that payment.

9 (d) ~~For~~ **Except as otherwise provided in this subdivision, for**
10 the preservation, construction, acquisition, and extension of the
11 major street system as defined by this act including the
12 acquisition of a necessary right of way for the system, work
13 incidental to the system, and an appurtenant roadside park or motor
14 parkway, of the city or village and for the payment of the
15 principal and interest on that portion of the city's or village's
16 general obligation bonds that are attributable to the construction
17 or reconstruction of the city's or village's major street system.
18 **However, once an asset management plan described in section 9a has**
19 **been approved, funds shall be used for the preservation,**
20 **construction, and acquisition of the street system as provided in**
21 **subsection (16) or for an emergency as described in section 11c.**
22 Not more than 5% per year of the money returned to a city or
23 village by this subsection shall be expended for the preservation
24 or acquisition of appurtenant roadside parks and motor parkways.
25 Surplus money may be expended for the development, construction, or
26 repair of off-street parking facilities, **and** the construction or
27 repair of street lighting, and transfer to the local street system
28 under subsection (6).

29 (e) For capital outlay projects for equipment and buildings,



1 contributions pledged for the payment of loans and for the payment
 2 of contractual debt service requirements for the payment of bonds
 3 for the purpose of providing money for capital outlay projects for
 4 equipment and buildings necessary to the development and
 5 maintenance of the road system so long as amounts allocated under
 6 this subdivision are used for transportation purposes.

7 (4) The remaining amount to be returned to incorporated cities
 8 and villages ~~shall~~**must** be expended in each city or village for the
 9 preservation, construction, acquisition, and extension of the local
 10 street system of the city or village, including the acquisition of
 11 a necessary right of way for the system, work incidental to the
 12 system, and subject to subsection (5), for the payment of the
 13 principal and interest on the portion of the city's or village's
 14 general obligation bonds that are attributable to the construction
 15 or reconstruction of the city's or village's local street system.

16 **However, once an asset management plan described in section 9a has**
 17 **been approved, funds shall be used for the preservation,**
 18 **construction, and acquisition of the street system as provided in**
 19 **subsection (16) or for an emergency as described in section 11c.**

20 The amount returned under this subsection ~~shall~~**must** be returned to
 21 the cities and villages 60% in the same proportion that the
 22 population of each bears to the total population of all
 23 incorporated cities and villages in ~~the~~**this** state, and 40% in the
 24 same proportion that the total mileage of the local street system
 25 of each bears to the total mileage in the local street systems of
 26 all cities and villages of ~~the~~**this** state. The payment of the
 27 principal and interest ~~upon~~**on** bonds issued by a city or village
 28 ~~pursuant to~~**under** 1952 PA 175, MCL 247.701 to 247.707, and after
 29 that payment, the payment of debt service on loans received under



1 section 11(5), ~~shall~~**must** have priority in the expenditure of money
2 returned under this subsection.

3 (5) Money distributed to each city and village for the
4 maintenance and preservation of its local street system under this
5 act represents the total responsibility of ~~the~~**this** state for local
6 street system support. Money distributed from the Michigan
7 transportation fund ~~shall~~**must** not be expended for construction
8 purposes on city and village local streets except to the extent
9 matched from local revenues including other money returned to a
10 city or village by this state under the state constitution of 1963
11 and statutes of this state, from money that can be raised by
12 taxation in cities and villages for street purposes within the
13 limitations of the state constitution of 1963 and statutes of this
14 state, from special assessments, or from any other source.

15 (6) Money returned under this section to a city or village
16 ~~shall~~**must** be expended on the major and local street systems of
17 that city or village. However, the first priority is the major
18 street system. Money returned for expenditure on the major street
19 system ~~shall~~**must** be expended in the priority order provided in
20 subsection (3) except that surplus money may be transferred for
21 preservation of the local street system. Major street money
22 transferred for use on the local street system ~~shall~~**must** not be
23 used for construction but may be used for preservation. A city or
24 village shall not transfer more than 50% of its annual major street
25 funding for the local street system unless it has adopted and is
26 following an asset management process for its major and local
27 street systems and adopts a resolution with a copy to the
28 department setting forth all of the following:

29 (a) A list of the major streets in that city or village.



1 (b) A statement that the city or village is adequately
2 maintaining its major streets.

3 (c) The dollar amount of the transfer.

4 (d) The local streets to be funded with the transfer.

5 (e) A statement that the city or village is following an asset
6 management process for its major and local street systems.

7 (7) A city or village that has not adopted an asset management
8 plan shall obtain the concurrence of the department to transfer
9 more than 50% of its major street funding to its local street
10 system. The department may provide for pilot projects that would
11 allow a city or village that has adopted an asset management plan
12 under subsection (6) to combine their local and major street funds
13 into 1 street fund and to submit a single report to the department
14 on the expenditure of money on the local and major street systems.

15 (8) Not more than 10% per year of all of the money returned to
16 a city or village from any source for the purposes of this section
17 may be expended for administrative expenses. A city or village that
18 expends more than 10% for administrative expenses in a year is
19 subject to section 14(5).

20 (9) In each city and village to which money is returned under
21 this section, the responsibility for street preservation and the
22 development, construction, or repair of off-street parking
23 facilities and construction or repair of street lighting shall be
24 coordinated by a single administrator designated by the governing
25 body who shall be responsible for and shall represent the
26 municipality in transactions with the department ~~pursuant to~~ **under**
27 this act.

28 (10) Cities and villages may provide for consolidated street
29 administration. A city or a village may enter into an agreement



1 with other cities or villages, the county road commission, or with
2 the state transportation commission for the performance of street
3 or highway work on a road or street within the limits of the city
4 or village or adjacent to the city or village. The agreement may
5 provide for any of the contracting parties to perform the work
6 contemplated by the contracts including services and acquisition of
7 rights of way, by purchase or condemnation in its own name. The
8 agreement may provide for joint participation in the costs if
9 appropriate.

10 (11) Interest earned on money returned to a city or a village
11 for purposes provided in this section ~~shall~~**must** be credited to the
12 appropriate street fund.

13 (12) In addition to the financial compliance audits required
14 by law, the department may conduct performance audits and make
15 investigations of the disposition of all state money received by
16 cities and villages for transportation purposes to determine
17 compliance with the terms and conditions of this act. Performance
18 audits ~~shall~~**must** be conducted according to government auditing
19 standards issued by the United States General Accounting Office.
20 The department shall develop all performance audit procedures and
21 reporting requirements sufficient to determine whether money
22 expended under this section was expended in compliance with this
23 act by September 1, 2012 and shall report to the transportation
24 committees of the senate and house of representatives no later than
25 October 1, 2012 on the additional audit procedures and reporting
26 requirements. The audit procedures ~~shall~~**must** include a review of
27 the road fund balance of the city or village. The cities and
28 villages shall report their road fund balances by fund balance
29 component. The department shall assist cities and villages to



1 ensure that road fund balances are consistently classified and are
2 in compliance with the audit and reporting requirements of this
3 section. The department shall provide notice to cities and villages
4 of the standards to be used for audits under this subsection prior
5 to the fiscal year in which the audit is conducted. The department
6 shall notify cities and villages of any subsequent changes to the
7 standards. Cities and villages shall make available to the
8 department the pertinent records for the audit. Performance audits
9 may be performed at the discretion of the department or ~~upon~~**on**
10 receiving a request from the speaker of the house of
11 representatives or the senate majority leader.

12 (13) Of the amounts appropriated for a city or village major
13 or local street system under this section, where possible, a city
14 or village shall secure pavement warranties for full replacement or
15 appropriate repair for contracted construction work on pavement
16 projects whose cost exceeds \$2,000,000.00 and projects for new
17 construction or reconstruction undertaken after ~~the effective date~~
18 ~~of the amendatory act that added this subsection~~ **April 1, 2016** if
19 allowed by the ~~federal highway administration~~ **Federal Highway**
20 **Administration** and the department. A city or village shall submit a
21 proposed warranty program to the department for approval no later
22 than February 1, 2017. If a proposed warranty program submitted
23 under this subsection is approved by the department, the city or
24 village shall implement the program no later than 1 year after the
25 approval. A city or village shall include a list of all warranties
26 that were secured under this subsection and indicate whether any of
27 those warranties were redeemed with the report required under
28 section 14(3), and shall also list all pavement projects whose cost
29 exceeds \$2,000,000.00 for which a warranty was not secured. The



list shall include, but is not limited to, all of the following information:

(a) The type of project.

(b) The cost or estimated cost of the project.

(c) The expected lifespan of the project.

(d) Whether or not the project met or is currently meeting its expected lifespan.

(e) If the project failed to meet or is not meeting its expected lifespan, the cause of the failure and the cost to replace or repair the project.

(f) The entity responsible for paying the cost of replacing or repairing the project.

(14) With the approval of the director of the department, a city may use up to 20% of the amount received by that city under this section for public transit purposes if more than 10,000,000 passengers used public transit within that city during the previous fiscal year.

(15) A city or village may use a portion of the amount returned to the city or village under this section for the payment of debt service on bonds, notes, or other obligations.

(16) Once the asset management plan for a city or village as described in Section 9a has been approved, amounts distributed to a city or village under this section shall be expended toward attainment of the condition goals in the asset management plan and as otherwise required by this act.

(17) ~~(15)~~As used in this section:

(a) "Administrative expenses" means expenses that are not assigned under this section, including, but not limited to, specific road construction or maintenance projects, and are often



referred to as general or supportive services. Administrative expenses do not include net equipment expense, net capital outlay, debt service principal and interest, or payments to other state or local offices that are assigned, but not limited to, specific road construction projects or maintenance activities.

(b) "Equivalent major mileage" means the sum of 2 times the state trunk line mileage certified by the department as of March 31 of each year, as being within the boundaries of each city and village having a population of 25,000 or more, plus the major street mileage in each city and village, multiplied by the following factor:

(i) 1.0 for cities and villages of 2,000 or less population.

(ii) 1.1 for cities and villages from 2,001 to 10,000 population.

(iii) 1.2 for cities and villages from 10,001 to 20,000 population.

(iv) 1.3 for cities and villages from 20,001 to 30,000 population.

(v) 1.4 for cities and villages from 30,001 to 40,000 population.

(vi) 1.5 for cities and villages from 40,001 to 50,000 population.

(vii) 1.6 for cities and villages from 50,001 to 65,000 population.

(viii) 1.7 for cities and villages from 65,001 to 80,000 population.

(ix) 1.8 for cities and villages from 80,001 to 95,000 population.



1 (x) 1.9 for cities and villages from 95,001 to 160,000
2 population.

3 (xi) 2.0 for cities and villages from 160,001 to 320,000
4 population.

5 (xii) For cities over 320,000 population, a factor of 2.1
6 increased successively by 0.1 for each 160,000 population increment
7 over 320,000.

8 (c) "Population" means the population according to the most
9 recent statewide federal census as certified at the beginning of
10 the state fiscal year, except that, if a municipality has been
11 newly incorporated since completion of the census, the population
12 of the municipality for purposes of the distribution of money
13 before completion of the next census ~~shall be~~ **is** the population as
14 determined by special federal census, if there is a special federal
15 census, and if not, by the population as determined by the official
16 census in connection with the incorporation, if there is such a
17 census and, if not, by a special state census to be taken at the
18 expense of the municipality by the secretary of state ~~pursuant to~~
19 **under** section 6 of the home rule city act, 1909 PA 279, MCL 117.6.