

HOUSE BILL NO. 4966

September 12, 2019, Introduced by Reps. Schroeder, Mueller, Miller, O'Malley, Meerman, Howell, Eisen and Sheppard and referred to the Committee on Transportation.

A bill to amend 1951 PA 51, entitled

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



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

by amending section 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



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

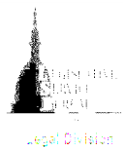
11 (2) From the amount available for distribution to cities and
12 villages during each December, an amount equal to 0.7% of the total
13 amount returned to all cities and villages under subsections (3)
14 and (4) during the previous calendar year ~~shall~~**must** be withheld.
15 The amount withheld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



1 July 1 by the subsequent December 31 is ineligible for the winter
2 maintenance payment that is to be based on that street financial
3 report. The department shall determine the average municipal winter
4 maintenance factor annually by dividing the total expenditures of
5 all cities and villages on winter maintenance of streets and
6 highways by the total amount earned by all cities and villages
7 under subsections (3) and (4) during the 12 months. If the sum of
8 the distributions to be made under this subsection exceeds the
9 amount withheld, the distributions to each eligible city and
10 village ~~shall~~**must** be reduced proportionately. If the sum is less
11 than the amount withheld, the balance ~~shall~~**must** be added to the
12 amount available for distribution under subsections (3) and (4)
13 during the next month. The distributions ~~shall be~~**are** for use on
14 the major and local street systems respectively and ~~shall be~~**are**
15 subject to the same provisions as money returned under subsections
16 (3) and (4).

17 (3) Seventy-five percent of the remaining amount to be
18 returned to the cities and villages, after deducting the amounts
19 withheld ~~pursuant to~~**under** subsection (2), ~~shall~~**must** be returned
20 60% in the same proportion that the population of each bears to the
21 total population of all cities and villages, and 40% in the same
22 proportion that the equivalent major mileage in each bears to the
23 total equivalent major mileage in all cities and villages. The
24 amount returned under this subsection ~~shall~~**must** be used by each
25 city and village for the following purposes in the following order
26 of priority:

27 (a) For the payment of contributions required to be made by a
28 city or village under the provisions of contracts previously
29 entered into under 1941 PA 205, MCL 252.51 to 252.64, that have



1 been previously pledged for the payment of the principal and
 2 interest on bonds issued under that act; or for the payment of the
 3 principal and interest upon bonds issued by a city or village
 4 ~~pursuant to~~ **under** 1952 PA 175, MCL 247.701 to 247.707.

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

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

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



1 transfer to the local street system under subsection (6).

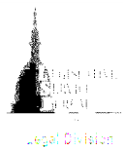
2 (e) For capital outlay projects for equipment and buildings,
3 contributions pledged for the payment of loans and for the payment
4 of contractual debt service requirements for the payment of bonds
5 for the purpose of providing money for capital outlay projects for
6 equipment and buildings necessary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

9 (4) The remaining amount to be returned to incorporated cities
10 and villages ~~shall~~**must** be expended in each city or village for the
11 preservation, construction, acquisition, and extension of the local
12 street system of the city or village, including the acquisition of
13 a necessary right of way for the system, work incidental to the
14 system, and subject to subsection (5), for the payment of the
15 principal and interest on the 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 local 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 described in**
21 **the asset management plan described in section 9a or for an**
22 **emergency as described in section 11c.** The amount returned under
23 this subsection ~~shall~~**must** be returned to the cities and villages
24 60% in the same proportion that the population of each bears to the
25 total population of all incorporated cities and villages in ~~the~~
26 **this** state, and 40% in the same proportion that the total mileage
27 of the local street system of each bears to the total mileage in
28 the local street systems of all cities and villages of ~~the~~**this**
29 state. The payment of the principal and interest ~~upon~~**on** bonds

1 issued by a city or village ~~pursuant to~~**under** 1952 PA 175, MCL
2 247.701 to 247.707, and after that payment, the payment of debt
3 service on loans received under section 11(5), ~~shall~~**must** have
4 priority in the expenditure of money returned under this
5 subsection.

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

18 (6) Money returned under this section to a city or village
19 ~~shall~~**must** be expended on the major and local street systems of
20 that city or village. However, the first priority is the major
21 street system. **However, once an asset management plan described in**
22 **section 9a has been approved, priority shall be given to projects**
23 **contained in the city or village asset management plan described in**
24 **section 9a.** Money returned for expenditure on the major street
25 system ~~shall~~**must** be expended in the priority order provided in
26 subsection (3) except that surplus money may be transferred for
27 preservation of the local street system. Major street money
28 transferred for use on the local street system ~~shall~~**must** not be
29 used for construction but may be used for preservation. A city or



1 village shall not transfer more than 50% of its annual major street
2 funding for the local street system unless it has adopted and is
3 following an asset management process for its major and local
4 street systems and adopts a resolution with a copy to the
5 department setting forth all of the following:

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

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

9 (c) The dollar amount of the transfer.

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

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

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

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

26 (9) In each city and village to which money is returned under
27 this section, the responsibility for street preservation and the
28 development, construction, or repair of off-street parking
29 facilities and construction or repair of street lighting shall be



1 coordinated by a single administrator designated by the governing
2 body who shall be responsible for and shall represent the
3 municipality in transactions with the department ~~pursuant to~~ **under**
4 this act.

5 (10) Cities and villages may provide for consolidated street
6 administration. A city or a village may enter into an agreement
7 with other cities or villages, the county road commission, or with
8 the state transportation commission for the performance of street
9 or highway work on a road or street within the limits of the city
10 or village or adjacent to the city or village. The agreement may
11 provide for any of the contracting parties to perform the work
12 contemplated by the contracts including services and acquisition of
13 rights of way, by purchase or condemnation in its own name. The
14 agreement may provide for joint participation in the costs if
15 appropriate.

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

19 (12) In addition to the financial compliance audits required
20 by law, the department may conduct performance audits and make
21 investigations of the disposition of all state money received by
22 cities and villages for transportation purposes to determine
23 compliance with the terms and conditions of this act. Performance
24 audits ~~shall~~ **must** be conducted according to government auditing
25 standards issued by the United States General Accounting Office.
26 The department shall develop all performance audit procedures and
27 reporting requirements sufficient to determine whether money
28 expended under this section was expended in compliance with this
29 act by September 1, 2012 and shall report to the transportation



committees of the senate and house of representatives no later than October 1, 2012 on the additional audit procedures and reporting requirements. The audit procedures ~~shall~~**must** include a review of the road fund balance of the city or village. The cities and villages shall report their road fund balances by fund balance component. The department shall assist cities and villages to ensure that road fund balances are consistently classified and are in compliance with the audit and reporting requirements of this section. The department shall provide notice to cities and villages of the standards to be used for audits under this subsection prior to the fiscal year in which the audit is conducted. The department shall notify cities and villages of any subsequent changes to the standards. Cities and villages shall make available to the department the pertinent records for the audit. Performance audits may be performed at the discretion of the department or ~~upon~~**on** receiving a request from the speaker of the house of representatives or the senate majority leader.

(13) Of the amounts appropriated for a city or village major or local street system under this section, where possible, a city or village shall secure pavement warranties for full replacement or appropriate repair for contracted construction work on pavement projects whose cost exceeds \$2,000,000.00 and projects for new construction or reconstruction undertaken after ~~the effective date of the amendatory act that added this subsection~~**April 1, 2016** if allowed by the ~~federal highway administration~~**Federal Highway Administration** and the department. A city or village shall submit a proposed warranty program to the department for approval no later than February 1, 2017. If a proposed warranty program submitted under this subsection is approved by the department, the city or



1 village shall implement the program no later than 1 year after the
2 approval. A city or village shall include a list of all warranties
3 that were secured under this subsection and indicate whether any of
4 those warranties were redeemed with the report required under
5 section 14(3), and shall also list all pavement projects whose cost
6 exceeds \$2,000,000.00 for which a warranty was not secured. The
7 list shall include, but is not limited to, all of the following
8 information:

9 (a) The type of project.

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

11 (c) The expected lifespan of the project.

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

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

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

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

24 (15) As used in this section:

25 (a) "Administrative expenses" means expenses that are not
26 assigned under this section, including, but not limited to,
27 specific road construction or maintenance projects, and are often
28 referred to as general or supportive services. Administrative
29 expenses do not include net equipment expense, net capital outlay,



1 debt service principal and interest, or payments to other state or
2 local offices that are assigned, but not limited to, specific road
3 construction projects or maintenance activities.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

