

STATE TRUNK LINE HIGHWAY SYSTEM (EXCERPT)

Act 51 of 1951

247.663 Return of distribution to city and village treasurers; manner, purpose, and conditions; audits; pavement warranties; permissible city or village expenditures; definitions.

Sec. 13. (1) The amount distributed to cities and villages must be returned to the treasurers of the cities and villages in the manner, for the purposes, and under the terms and conditions specified in this section. The amount received by a newly incorporated municipality must be in place of any other direct distribution of money from the Michigan transportation fund. The population of a newly incorporated municipality as determined under this section must be added to the total population of all incorporated cities and villages in this state in computing the amounts to be returned under this section to each municipality in the state. Major street mileage, local street mileage, and equivalent major mileage, if applicable, must be determined by the department before the next month for which distribution is made following the effective date of incorporation of a newly incorporated municipality.

(2) From the amount available for distribution to cities and villages during each December, an amount equal to 0.7% of the total amount returned to all cities and villages under subsections (3) and (4) during the previous calendar year must be withheld. The amount withheld must be used to partially reimburse cities and villages located in counties that are eligible for snow removal funds under section 12a and that have costs for winter maintenance on major and local streets that are greater than the statewide average. The distributions must be made annually during February and must be calculated separately for the major and local street systems but may be paid in a combined warrant. The distribution to a city or village must be equal to 1/2 of its winter maintenance expenditures after deducting the product of its total earnings under subsections (3) and (4) multiplied by 2 times the average municipal winter maintenance factor. Winter maintenance expenditures must be determined from the street financial reports for the most current fiscal years ending before July 1. A city or village that does not submit a street financial report for the fiscal year ending before July 1 by the subsequent December 31 is ineligible for the winter 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 must be reduced proportionately. If the sum is less than the amount withheld, the balance must be added to the amount available for distribution under subsections (3) and (4) during the next month. The distributions are for use on the major and local street systems respectively and 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 under subsection (2), 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 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 principal and interest upon bonds issued by a city or village under 1952 PA 175, MCL 247.701 to 247.707.

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

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

(d) Except as otherwise provided in this subdivision, for the preservation, construction, acquisition, and extension of the major street system as defined by this act including the acquisition of a necessary right of way for the system, work incidental to the system, and an appurtenant roadside park or motor parkway, of the city or village and for the payment of the principal and interest on that portion of the city's or village's general obligation bonds that are attributable to the construction or reconstruction of the city's or village's major street system. However, once an asset management plan described in section 9a has been approved, funds shall be used for the preservation, construction, and acquisition of the street system as provided in subsection (16) or for an emergency as described in section 11c. Not more than 5% per year of the money returned to a city or village by this subsection shall be expended for the preservation or acquisition of appurtenant roadside parks

and motor parkways. Surplus money may be expended for the development, construction, or repair of off-street parking facilities, and the construction or repair of street lighting, and transfer to the local street system under subsection (6).

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

(4) The remaining amount to be returned to incorporated cities and villages must be expended in each city or village for the preservation, construction, acquisition, and extension of the local street system of the city or village, including the acquisition of a necessary right of way for the system, work incidental to the system, and subject to subsection (5), for the payment of the principal and interest on the portion of the city's or village's general obligation bonds that are attributable to the construction or reconstruction of the city's or village's local street system. However, once an asset management plan described in section 9a has been approved, funds shall be used for the preservation, construction, and acquisition of the street system as provided in subsection (16) or for an emergency as described in section 11c. The amount returned under this subsection must be returned to the cities and villages 60% in the same proportion that the population of each bears to the total population of all incorporated cities and villages in this state, and 40% in the same proportion that the total mileage of the local street system of each bears to the total mileage in the local street systems of all cities and villages of this state. The payment of the principal and interest on bonds issued by a city or village under 1952 PA 175, MCL 247.701 to 247.707, and after that payment, the payment of debt service on loans received under section 11(5), must have priority in the expenditure of money returned under this subsection.

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

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

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

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

(c) The dollar amount of the transfer.

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

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

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

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

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

(10) Cities and villages may provide for consolidated street administration. A city or a village may enter into an agreement with other cities or villages, the county road commission, or with the state transportation

commission for the performance of street or highway work on a road or street within the limits of the city or village or adjacent to the city or village. The agreement may provide for any of the contracting parties to perform the work contemplated by the contracts including services and acquisition of rights of way, by purchase or condemnation in its own name. The agreement may provide for joint participation in the costs if appropriate.

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

(12) In addition to the financial compliance audits required by law, the department may conduct performance audits and make investigations of the disposition of all state money received by cities and villages for transportation purposes to determine compliance with the terms and conditions of this act. Performance audits must be conducted according to government auditing standards issued by the United States General Accounting Office. The department shall develop all performance audit procedures and reporting requirements sufficient to determine whether money expended under this section was expended in compliance with this 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 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 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 April 1, 2016 if allowed by the 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 village shall implement the program no later than 1 year after the approval. A city or village shall include a list of all warranties that were secured under this subsection and indicate whether any of those warranties were redeemed with the report required under section 14(3), and shall also list all pavement projects whose cost 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) 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.
- (x) 1.9 for cities and villages from 95,001 to 160,000 population.
- (xi) 2.0 for cities and villages from 160,001 to 320,000 population.
- (xii) For cities over 320,000 population, a factor of 2.1 increased successively by 0.1 for each 160,000 population increment over 320,000.

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

History: 1951, Act 51, Eff. June 1, 1951;—Am. 1957, Act 262, Eff. July 1, 1957;—Am. 1967, Act 298, Eff. Jan. 1, 1968;—Am. 1967, Ex. Sess., Act 4, Eff. Jan. 1, 1968;—Am. 1972, Act 327, Imd. Eff. Jan. 3, 1973;—Am. 1976, Act 41, Imd. Eff. Mar. 16, 1976;—Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978;—Am. 1979, Act 58, Imd. Eff. July 18, 1979;—Am. 1982, Act 436, Imd. Eff. Dec. 29, 1982;—Am. 1982, Act 438, Eff. Jan. 1, 1983;—Am. 1983, Act 82, Imd. Eff. June 15, 1983;—Am. 1987, Act 234, Imd. Eff. Dec. 28, 1987;—Am. 1992, Act 82, Imd. Eff. June 2, 1992;—Am. 1993, Act 294, Imd. Eff. Dec. 28, 1993;—Am. 1997, Act 79, Eff. July 28, 1997;—Am. 1999, Act 54, Imd. Eff. June 15, 1999;—Am. 2004, Act 9, Imd. Eff. Feb. 26, 2004;—Am. 2006, Act 338, Imd. Eff. Aug. 15, 2006;—Am. 2010, Act 261, Imd. Eff. Dec. 14, 2010;—Am. 2012, Act 298, Imd. Eff. Aug. 23, 2012;—Am. 2015, Act 175, Eff. Apr. 1, 2016;—Am. 2020, Act 153, Imd. Eff. Sept. 17, 2020.

Compiler's note: Enacting section 1 of Act 473 of 2014 provides:

"Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 473 of 2014 does not go into effect.

Popular name: McNitt Act

Popular name: Michigan Transportation Fund Act