

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5167**

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 11c (MCL 247.661c), as amended by 2002 PA 498.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11c. (1) All ~~federal aid~~ construction projects, ~~all~~
 2 ~~other projects~~ of the department concerning highways, streets,
 3 roads, and bridges, whose cost exceeds \$100,000.00 for construction
 4 or preservation as defined in section 10c, shall be performed by
 5 contract awarded by competitive bidding unless the department ~~shall~~
 6 ~~affirmatively find~~ **AFFIRMATIVELY FINDS** that under the circumstances
 7 relating to those projects, some other method is in the public
 8 interest. ~~All of these~~ **THE DIRECTOR OF THE DEPARTMENT SHALL REPORT**
 9 **HIS OR HER** findings ~~shall be reported~~ to the state transportation
 10 commission 90 days before work is commenced and promptly in writing
 11 to the appropriations committees of the senate and house of
 12 representatives. However, in a case in which the department
 13 determines emergency action is required, the reports need not be
 14 filed before ~~work is commenced~~ **A CONTRACT IS AWARDED** but shall be
 15 promptly filed. ~~Local road agencies that make a decision not to~~

~~perform construction or preservation projects exceeding \$100,000.00
shall contract for this work through competitive bidding.~~

(2) ALL CONSTRUCTION PROJECTS OF A LOCAL ROAD AGENCY WHOSE COSTS EXCEED \$100,000.00 FOR CONSTRUCTION OR PRESERVATION, EXCLUDING ROUTINE MAINTENANCE, SHALL BE PERFORMED BY CONTRACT AWARDED BY COMPETITIVE BIDDING UNLESS THE LOCAL ROAD AGENCY AFFIRMATIVELY FINDS THAT UNDER THE CIRCUMSTANCES RELATING TO THOSE PROJECTS, SOME OTHER METHOD IS IN THE PUBLIC INTEREST. INSTALLATION OR UPGRADING OF ADVANCED TRAFFIC MANAGEMENT AND SIGNALS IS EXEMPT FROM THIS SUBSECTION. A COUNTY ROAD COMMISSION SHALL REPORT ITS FINDINGS BEFORE WORK IS COMMENCED IN WRITING TO THE COUNTY BOARD OF COMMISSIONERS OF THAT COUNTY AND THE STATE TRANSPORTATION COMMISSION. A CITY OR VILLAGE SHALL REPORT ITS FINDINGS BEFORE WORK IS COMMENCED IN WRITING TO THE GOVERNING ELECTED BODY OF THAT CITY OR VILLAGE AND THE STATE TRANSPORTATION COMMISSION.

(3) THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT A PERFORMANCE-BASED MAINTENANCE SYSTEM TO IMPROVE EFFICIENCIES AND OUTCOMES IN THE PERFORMANCE OF MAINTENANCE SERVICES ON STATE TRUNK LINE HIGHWAYS.

(4) NO LATER THAN SEPTEMBER 30, 2015, THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT A PERFORMANCE RATING SYSTEM FOR THE MAINTENANCE SERVICES PERFORMED ON ALL HIGHWAYS, STREETS, AND ROADS UNDER ITS JURISDICTION. THE PERFORMANCE RATING SYSTEM SHALL PROVIDE FOR THE COLLECTION OF DATA ON ALL MAINTENANCE ACTIVITIES, INCLUDING THE QUANTITIES AND LOCATIONS OF ACTIVITIES PERFORMED AND THE COSTS ASSOCIATED WITH THOSE ACTIVITIES.

(5) BEGINNING OCTOBER 1, 2015, A MINIMUM OF 20% OF ALL FUNDS

1 EXPENDED BY THE DEPARTMENT FOR MAINTENANCE SERVICES SHALL BE FOR
2 CONTRACTS THAT PROVIDE FOR PAYMENT BASED ON PERFORMANCE OUTPUTS OR
3 OUTCOMES ASSOCIATED WITH THE PERFORMANCE RATING SYSTEM REQUIRED
4 UNDER SUBSECTION (4).

5 (6) THE DIRECTOR OF THE DEPARTMENT SHALL REPORT RESULTS AND
6 FINDINGS ON THE OUTCOMES OF STATE TRUNK LINE HIGHWAY MAINTENANCE
7 SERVICES, THE CONTRACTING PROCESS, AND CONTRACT PERFORMANCE FOR ALL
8 CONTRACTS ENTERED INTO UNDER THIS SECTION NO LATER THAN DECEMBER 1,
9 2016, AND ON DECEMBER 1 OF EACH SUBSEQUENT YEAR TO THE
10 APPROPRIATIONS COMMITTEES OF THE SENATE AND HOUSE OF
11 REPRESENTATIVES.

12 (7) A LOCAL ROAD AGENCY THAT RECEIVED AT LEAST \$20,000,000.00
13 IN FUNDING FROM THE MICHIGAN TRANSPORTATION FUND IN FISCAL YEAR
14 2013 SHALL DEVELOP, IN CONJUNCTION WITH THE TRANSPORTATION ASSET
15 MANAGEMENT COUNCIL AND THE DEPARTMENT, AND IMPLEMENT A PERFORMANCE-
16 BASED PREVENTATIVE MAINTENANCE SYSTEM TO IMPROVE EFFICIENCIES AND
17 OUTCOMES IN THE PERFORMANCE OF PREVENTATIVE MAINTENANCE SERVICES ON
18 ALL HIGHWAYS, STREETS, AND ROADS UNDER ITS JURISDICTION.

19 (8) NO LATER THAN SEPTEMBER 30, 2016, A LOCAL ROAD AGENCY
20 DESCRIBED IN SUBSECTION (7) SHALL DEVELOP AND IMPLEMENT A
21 PERFORMANCE RATING SYSTEM FOR THE PREVENTATIVE MAINTENANCE SERVICES
22 PERFORMED ON ALL HIGHWAYS, STREETS, AND ROADS UNDER ITS
23 JURISDICTION. THE PERFORMANCE RATING SYSTEM SHALL PROVIDE FOR THE
24 COLLECTION OF DATA ON ALL PREVENTATIVE MAINTENANCE ACTIVITIES,
25 INCLUDING THE QUANTITIES AND LOCATIONS OF ACTIVITIES PERFORMED AND
26 THE COSTS ASSOCIATED WITH THOSE ACTIVITIES.

27 (9) BEGINNING OCTOBER 1, 2016, A MINIMUM OF 20% OF ALL FUNDS

1 EXPENDED BY A LOCAL ROAD AGENCY DESCRIBED IN SUBSECTION (7) FOR
2 PREVENTATIVE MAINTENANCE SERVICES SHALL BE FOR CONTRACTS THAT
3 PROVIDE FOR PAYMENT BASED ON PERFORMANCE OUTPUTS OR OUTCOMES
4 ASSOCIATED WITH THE PERFORMANCE RATING SYSTEM REQUIRED UNDER
5 SUBSECTION (8).

6 (10) THE CHIEF EXECUTIVE OF EACH LOCAL ROAD AGENCY REQUIRED TO
7 COMPETITIVELY BID UNDER THIS SECTION SHALL REPORT RESULTS AND
8 FINDINGS ON THE OUTCOMES OF PREVENTATIVE MAINTENANCE SERVICES
9 PERFORMED ON ALL HIGHWAYS, STREETS, AND ROADS UNDER THE
10 JURISDICTION OF THAT LOCAL ROAD AGENCY, THE CONTRACTING PROCESS,
11 AND CONTRACT PERFORMANCE FOR ALL CONTRACTS ENTERED INTO UNDER THIS
12 SECTION NO LATER THAN DECEMBER 1, 2017, AND ON DECEMBER 1 OF EACH
13 SUBSEQUENT YEAR TO THE DIRECTOR OF THE DEPARTMENT AND TO THE
14 APPROPRIATIONS COMMITTEES OF THE SENATE AND HOUSE OF
15 REPRESENTATIVES.

16 (11) AS USED IN THIS SECTION:

17 (A) "LOCAL ROAD AGENCY" MEANS THAT TERM AS DEFINED IN SECTION
18 9A.

19 (B) "MAINTENANCE SERVICES" MEANS ROUTINE AND REACTIVE
20 MAINTENANCE ACTIVITIES UNDERTAKEN TO ENSURE THE NORMAL AND SAFE
21 OPERATION OF A HIGHWAY, STREET, OR ROAD, INCLUDING ACTIVITIES
22 PERFORMED ON AN APPURTENANCE OR ROADSIDE FEATURE ASSOCIATED WITH A
23 HIGHWAY, STREET, OR ROAD THAT IS NECESSARY FOR THE SAFE OPERATION
24 OF THE APPURTENANCE OR ROADSIDE FEATURE. MAINTENANCE SERVICES DO
25 NOT INCLUDE A CONSTRUCTION ACTIVITY THAT IS INTENDED TO
26 SIGNIFICANTLY REPAIR, RESURFACE, REHABILITATE, OR RECONSTRUCT A
27 HIGHWAY, STREET, OR ROAD, OR AN APPURTENANCE OR ROADSIDE FEATURE

1 **ASSOCIATED WITH A HIGHWAY, STREET, OR ROAD.**

2 Enacting section 1. This amendatory act does not take effect
3 unless House Bill No. 5477 of the 97th Legislature is enacted into
4 law.