

SUBSTITUTE FOR
HOUSE BILL NO. 5523

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 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, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive

HB5523, As Passed House, December 5, 2002

House Bill No. 5523

2

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 10c, 10h, 10l, and 10n (MCL 247.660c,

247.660h, 247.660l, and 247.660n), sections 10c and 10h as

amended by 2002 PA 498, section 10l as amended by 1987 PA 234,

and section 10n as amended by 2002 PA 329.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10c. As used in this act:

2 (a) "Urban or rural area" means a contiguous developed area,
3 including the immediate surrounding area, where transportation
4 services should reasonably be provided presently or in the
5 future; the area within the jurisdiction of an eligible authori-
6 ty; or for the purpose of receiving funds for public transporta-
7 tion, a contiguous developed area having a population of less
8 than 50,000 population that has an urban public transportation
9 program approved by the state transportation department and for
10 which the state transportation commission determines that public
11 transportation services should reasonably be provided presently
12 or in the future.

13 (b) "Eligible authority" means an authority organized
14 ~~pursuant to~~ UNDER the metropolitan transportation authorities

HB5523, As Passed House, December 5, 2002

House Bill No. 5523

3

1 act of 1967, 1967 PA 204, MCL 124.401 to 124.426, OR AN AUTHORITY
2 ORGANIZED OR CONTINUED UNDER THE DETROIT AREA REGIONAL TRANSPOR-
3 TATION AUTHORITY ACT.

4 (c) "Eligible governmental agency" means a county, city, or
5 village or an authority created ~~pursuant to~~ UNDER 1963 PA 55,
6 MCL 124.351 to 124.359; the urban cooperation act of 1967, 1967
7 (Ex Sess) PA 7, MCL 124.501 to 124.512; 1967 (Ex Sess) PA 8,
8 MCL 124.1 to 124.13; 1951 PA 35, MCL 124.1 to 124.13; the public
9 transportation authority act, 1986 PA 196, MCL 124.451 to
10 124.479; or the revenue bond act of 1933, 1933 PA 94, MCL 141.101
11 to 141.140.

12 (d) "Transit vehicle" means a bus, rapid transit vehicle,
13 railroad car, water vehicle, taxicab, or other type of public
14 transportation vehicle or individual unit, whether operated
15 singly or in a group which provides public transportation.

16 (e) "Transit vehicle mile" means a transit vehicle operated
17 for 1 mile in public transportation service including demand
18 actuated and line-haul vehicle miles.

19 (f) "Demand actuated vehicle" means a bus or smaller transit
20 vehicle operated for providing group rides to members of the gen-
21 eral public paying fares individually, and on demand rather than
22 in regularly scheduled route service.

23 (g) "Demand actuated vehicle mile" means a demand actuated
24 vehicle operated for 1 mile in service to the general public.

25 (h) "Public transportation", "comprehensive transportation",
26 "public transportation service", "comprehensive transportation
27 service", "public transportation purpose", or "comprehensive

HB5523, As Passed House, December 5, 2002

House Bill No. 5523

4

1 transportation purpose" means the movement of people and goods by
2 publicly or privately owned water vehicle, bus, railroad car,
3 aircraft, rapid transit vehicle, taxicab, or other conveyance
4 which provides general or special service to the public, but not
5 including charter or sightseeing service or transportation which
6 is exclusively for school purposes. Public transportation,
7 public transportation services, or public transportation pur-
8 poses; and comprehensive transportation, comprehensive transpor-
9 tation services, or comprehensive transportation purposes as
10 defined in this subdivision are declared by law to be transporta-
11 tion purposes within the meaning of section 9 of article IX of
12 the state constitution of 1963.

13 (i) "State transportation commission" means the state trans-
14 portation commission established in section 28 of article V of
15 the state constitution of 1963.

16 (j) "Governmental unit" means the state transportation
17 department, the state transportation commission, a county road
18 commission, a city, or a village.

19 (k) "Department" or "department of transportation" means the
20 state transportation department, which may be referred to admin-
21 istratively as the department of transportation.

22 (l) "Preservation" means an activity undertaken to preserve
23 the integrity of the existing roadway system. Preservation does
24 not include new construction of highways, roads, streets, or
25 bridges, a project that increases the capacity of a highway
26 facility to accommodate that part of traffic having neither an
27 origin nor destination within the local area, widening of a lane

HB5523, As Passed House, December 5, 2002

House Bill No. 5523

5

1 width or more, or adding turn lanes of more than 1/2 mile in
2 length. Preservation includes, but is not limited to, 1 or more
3 of the following:

4 (i) Maintenance.

5 (ii) Capital preventive treatments.

6 (iii) Safety projects.

7 (iv) Reconstruction.

8 (v) Resurfacing.

9 (vi) Restoration.

10 (vii) Rehabilitation.

11 (viii) Widening of less than the width of 1 lane.

12 (ix) Adding auxiliary weaving, climbing, or speed change
13 lanes.

14 (x) Modernizing intersections.

15 (xi) Adding auxiliary turning lanes of 1/2 mile or less.

16 (m) "Maintenance" means routine maintenance or preventive
17 maintenance, or both. Maintenance does not include capital pre-
18 ventive treatments, resurfacing, reconstruction, restoration,
19 rehabilitation, safety projects, widening of less than 1 lane
20 width, adding auxiliary turn lanes of 1/2 mile or less, adding
21 auxiliary weaving, climbing, or speed-change lanes, modernizing
22 intersections, or the upgrading of aggregate surface roads to
23 hard surface roads. Maintenance of state trunk line highways
24 does not include streetlighting except for freeway lighting for
25 traffic safety purposes.

26 (n) "Routine maintenance" means actions performed on a
27 regular or controllable basis or in response to uncontrollable

HB5523, As Passed House, December 5, 2002

House Bill No. 5523

6

1 events upon a highway, road, street, or bridge. Routine
2 maintenance includes, but is not limited to, 1 or more of the
3 following:

4 (i) Snow and ice removal.

5 (ii) Pothole patching.

6 (iii) Unplugging drain facilities.

7 (iv) Replacing damaged sign and pavement markings.

8 (v) Replacing damaged guardrails.

9 (vi) Repairing storm damage.

10 (vii) Repair, replacement, or operation of traffic signal
11 systems.

12 (viii) Emergency environmental cleanup.

13 (ix) Emergency repairs.

14 (x) Emergency management of road closures that result from
15 uncontrollable events.

16 (xi) Cleaning streets and associated drainage.

17 (xii) Installing traffic signs and signal devices.

18 (xiii) Mowing roadside.

19 (xiv) Control of roadside brush and vegetation.

20 (xv) Cleaning roadside.

21 (xvi) Repairing lighting.

22 (xvii) Grading.

23 (o) "Preventive maintenance" means a planned strategy of
24 cost-effective treatments to an existing roadway system and its
25 appurtenances that preserve assets by retarding deterioration and
26 maintaining functional condition without significantly increasing

HB5523, As Passed House, December 5, 2002

House Bill No. 5523

7

1 structural capacity. Preventive maintenance includes, but is not
2 limited to, 1 or more of the following:

3 (i) Pavement crack sealing.

4 (ii) Micro surfacing.

5 (iii) Chip sealing.

6 (iv) Concrete joint resealing.

7 (v) Concrete joint repair.

8 (vi) Filling shallow pavement cracks.

9 (vii) Patching concrete.

10 (viii) Shoulder resurfacing.

11 (ix) Concrete diamond grinding.

12 (x) Dowel bar retrofit.

13 (xi) Bituminous overlays of 1-1/2 inches or less in
14 thickness.

15 (xii) Restoration of drainage.

16 (xiii) Bridge crack sealing.

17 (xiv) Bridge joint repair.

18 (xv) Bridge seismic retrofit.

19 (xvi) Bridge scour countermeasures.

20 (xvii) Bridge painting.

21 (xviii) Pollution prevention.

22 (xix) New treatments as they may be developed.

23 (p) "County road commission" means the board of county road
24 commissioners elected or appointed pursuant to section 6 of chap-
25 ter IV of 1909 PA 283, MCL 224.6, or, in the case of a charter
26 county with a population of 2,000,000 or more with an elected
27 county executive that does not have a board of county road

HB5523, As Passed House, December 5, 2002

House Bill No. 5523

8

1 commissioners, the county executive for ministerial functions and
2 the county commission provided for in section 14(1)(d) of 1966
3 PA 293, MCL 45.514, for legislative functions.

4 (q) "Capital preventive treatments" means any preventive
5 maintenance category project on state trunk line highways that
6 qualifies under the department's capital preventive maintenance
7 program.

8 Sec. 10h. (1) By May 1 of each year, the state transporta-
9 tion commission shall report to each member of the legislature,
10 the governor, and the auditor general its recommendations for a
11 transportation program which the state transportation commission
12 acts on under section 10e(10). The report shall specify the
13 following:

14 (a) The estimated amount of money in the comprehensive
15 transportation fund to be distributed in the following fiscal
16 year and the amount of money in the comprehensive transportation
17 fund to be distributed to each eligible authority, each intercity
18 carrier, each eligible governmental agency, and the state trans-
19 portation department; the estimated amount of money in the state
20 trunk line fund to be distributed to the state transportation
21 department for the preservation, as defined in section 10c, of
22 state trunk line highways; and the estimated amount of money in
23 the state trunk line fund to be distributed to the state trans-
24 portation department for all other purposes in the following
25 fiscal year. The report shall further subdivide the money to be
26 distributed to each eligible authority, each intercity carrier,
27 each eligible governmental agency, the state transportation

HB5523, As Passed House, December 5, 2002

House Bill No. 5523

9

1 department from the comprehensive transportation fund, the state
2 transportation department from the state trunk line fund for the
3 preservation of state trunk line highways, and the state trans-
4 portation department from the state trunk line fund for all other
5 purposes specifying how much of that money is proposed to be
6 expended for either capital acquisitions, including demonstration
7 projects, or for operating expenses, including demonstration
8 projects.

9 (b) An account of all expenditures of funds distributed from
10 the state trunk line fund and the comprehensive transportation
11 fund to the state transportation department, eligible authori-
12 ties, intercity carriers, and eligible governmental agencies, and
13 the progress made by the state transportation department, eligi-
14 ble authorities, intercity carriers, and eligible governmental
15 agencies in carrying out the approved transportation programs in
16 the preceding fiscal year through the use of those funds. The
17 progress report shall be made based on information supplied to
18 the state transportation department on forms authorized by the
19 federal department of transportation. For those eligible author-
20 ities, intercity carriers, and eligible governmental agencies not
21 receiving federal funds pursuant to the urban mass transportation
22 act of 1964, Public Law 88-365, the progress report shall be made
23 upon forms supplied by the state transportation department. The
24 progress report shall also contain the whole amount of the
25 expenses of the state transportation department for the fiscal
26 year.

HB5523, As Passed House, December 5, 2002

House Bill No. 5523

10

1 (c) Each project certified to be eligible for a multiyear
2 funding commitment.

3 (d) The status of all multiyear funding commitments.

4 (e) An account of the state transportation department's com-
5 pliance in the preceding year with the requirements of section
6 11(2) and (3). The report shall also specify the justification
7 for a waiver of the requirement of section 11(3), if that
8 requirement was waived.

9 (2) The financial transactions and accounts related to dis-
10 tributions made from the comprehensive transportation fund to an
11 eligible authority ~~created under the metropolitan transportation~~
12 ~~authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426,~~
13 shall be audited pursuant to ~~that act~~ THE METROPOLITAN TRANS-
14 PORTATION AUTHORITIES ACT OF 1967, 1967 PA 204, MCL 124.401 TO
15 124.426, OR THE DETROIT AREA TRANSPORTATION AUTHORITY ACT, WHICH-
16 EVER APPLIES. The cost of the audit shall be paid by the eligi-
17 ble authority. The financial transactions and accounts related
18 to distributions made from the fund to an eligible governmental
19 agency, other than a county, shall be audited in accordance with
20 the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421
21 to 141.440a. The financial transactions and accounts related to
22 distributions made from the fund to a county which is an eligible
23 governmental agency shall be audited in accordance with 1919
24 PA 71, MCL 21.41 to 21.55. The financial transactions and
25 accounts relative to distributions made to an intercity carrier
26 shall be audited by an independent certified public accountant in
27 accordance with instructions promulgated by the department of

HB5523, As Passed House, December 5, 2002

House Bill No. 5523

11

1 treasury. A copy of the complete audit report and management
2 letter shall be submitted by the eligible authority, intercity
3 carrier, or eligible governmental agency to the state transporta-
4 tion department. The department of treasury shall develop mini-
5 mum audit standards and requirements.

6 (3) There is hereby established a task force composed of the
7 Michigan public transit association, the Michigan motorbus asso-
8 ciation, the Michigan rail users and supporters association, the
9 Michigan railroad association, a representative of a state-owned
10 or leased short line railroad, and the office of auditor general
11 or a certified public accountant appointed by the auditor gener-
12 al, to assist the department in the development of the progress
13 report requirements outlined in subsection (1)(b).

14 Sec. 10/. (1) For each 12-month period beginning October 1,
15 1987, and each 12-month period thereafter, \$2,000,000.00 shall be
16 returned from the distribution under section 10e(4)(a) by each
17 ~~multicounty~~ ELIGIBLE authority ~~created under the metropolitan~~
18 ~~transportation authorities act of 1967, Act No. 204 of the~~
19 ~~Public Acts of 1967, being sections 124.401 to 124.425 of the~~
20 ~~Michigan Compiled Laws,~~ ORGANIZED UNDER THE DETROIT AREA
21 REGIONAL TRANSPORTATION AUTHORITY ACT in terms of a credit to
22 ~~those~~ cities, villages, and townships within ~~each transporta-~~
23 ~~tion district of~~ the authority, ~~created under section 16a of~~
24 ~~Act No. 204 of the Public Acts of 1967, being section 124.416a~~
25 ~~of the Michigan Compiled Laws, which~~ RECEIVING OR ELIGIBLE TO
26 RECEIVE CREDITS AS OF OCTOBER 1, 2001 THAT apply to the authority
27 for the credit in accordance with procedures and standards

HB5523, As Passed House, December 5, 2002

House Bill No. 5523

12

1 established by the authority, except as provided by subsections
2 (2) and (3). The return of money in terms of a credit shall be
3 based upon the population of each city, village, or township
4 within the authority.

5 (2) For each 12-month period described in subsection (1), a
6 city, village, or township described in subsection (1) may apply
7 to the authority to use its credit for public transportation pur-
8 poses within the authority's jurisdiction. However, the money
9 returned in terms of a credit to any city, village, or township
10 ~~which~~ THAT provides public transportation service for that
11 city, village, or township shall be used exclusively toward
12 reducing the operating deficit of that service. ~~Moreover, any~~
13 ANY service provided by the city, township, or village utilizing
14 the credit received ~~pursuant to~~ UNDER this section shall be
15 operated by the authority returning the money in terms of a
16 credit on a contractual basis with each city, village, or town-
17 ship or with a combination of cities, villages, and townships.
18 If a city, township, or village has not applied to the authority
19 to utilize its credit pursuant to this subsection by the last day
20 of the 12-month period, that municipality's share of the money
21 credited pursuant to subsection (1) shall be used by the author-
22 ity for an expenditure within the county within which the city,
23 village, or township lies.

24 (3) A city, village, or township ~~which~~ THAT has applied
25 for and received approval from the authority for use of its
26 credit pursuant to subsection (2) shall have 1 year after the end
27 of the period in which the application was made to actually

HB5523, As Passed House, December 5, 2002

House Bill No. 5523

13

1 expend that credit. A credit not actually expended by the city,
2 village, or township by the last day of the year after the end of
3 the period in which the application was made shall be used by the
4 authority for an expenditure within the county within which the
5 city, village, or township lies.

6 (4) Notwithstanding any other section of this or any other
7 act, each authority authorized by this section to return money in
8 terms of a credit shall have the final decision as to what con-
9 stitutes a proper expenditure, a public transportation service,
10 or a public transportation purpose under subsections (2) and
11 (3).

12 (5) The expenditure of the amounts required to be expended
13 under subsections (2) and (3) shall not be conditioned on an
14 expenditure by a county in which the expenditure is required to
15 be expended.

16 (6) ~~The~~ AN authority shall retain ~~the~~ ITS ability to
17 coordinate services between contracting cities, villages, and
18 townships or groups of cities, villages, or townships.

19 (7) As used in this section, "operating deficit" means the
20 operating cost of a public transportation service less the reve-
21 nues generated by the service.

22 Sec. 10n. (1) Funds from the comprehensive transportation
23 fund may be distributed to a trustee, or to the Michigan municipi-
24 pal bond authority as created under the shared credit rating act,
25 1985 PA 227, MCL 141.1051 to 141.1076, that is authorized to
26 receive the funds under a borrowing resolution adopted by an
27 eligible authority. The issuance of the notes of an eligible

HB5523, As Passed House, December 5, 2002

House Bill No. 5523

14

1 authority in anticipation of payment of proceeds from the
2 comprehensive transportation fund shall be authorized by a bor-
3 rowing resolution of the eligible authority under the metropoli-
4 tan transportation authorities act of 1967, 1967 PA 204,
5 MCL 124.401 to 124.426, OR THE DETROIT AREA REGIONAL TRANSPORTA-
6 TION AUTHORITY ACT. The issuance of the notes under this section
7 is not subject to the revised municipal finance act, 2001 PA 34,
8 MCL 141.2101 to 141.2821, and shall be subject to the prior
9 approval of the state transportation commission. Failure of the
10 commission to take action within 35 days after receipt of notifi-
11 cation from the eligible authority of intent to issue the notes,
12 constitutes approval by the state transportation commission. The
13 eligible authority may only issue the notes in anticipation of
14 funds to be received during its current fiscal year at any time
15 before the eligible authority's receipt of the funds from the
16 comprehensive transportation fund. The principal amount of notes
17 for which the funds to be received from the comprehensive trans-
18 portation fund are pledged shall not exceed 85% of the amount
19 remaining to be received by the eligible authority from the com-
20 prehensive transportation fund in the current fiscal year. The
21 pledge of 100% of the funds the eligible authority expects to
22 receive from the comprehensive transportation fund shall be
23 secured by a direct transfer of the pledge funds from the compre-
24 hensive transportation fund to the trustee or the Michigan munic-
25 ipal bond authority that is authorized to receive the funds by
26 the borrowing resolution adopted by the eligible authority. The
27 notes of the eligible authority shall not be in any way a debt or

HB5523, As Passed House, December 5, 2002

House Bill No. 5523

15

1 a liability of the state and shall not create or constitute any
2 indebtedness, liability, or obligations of the state or be or
3 constitute a pledge of the full faith and credit of the state.
4 Each note shall contain on its face a statement to the effect
5 that the eligible authority is obligated to pay the principal of
6 and the interest on the note only from funds of or due to the
7 eligible authority and that this state is not obligated to pay
8 that principal or interest and that neither the faith in credit
9 nor the taxing power of this state is pledged to the payment of
10 the principal of or the interest on the note. The notes shall
11 mature not more than 13 months from the date of issuance, shall
12 bear interest at a fixed or variable rate or rates of interest
13 per annum, and, in addition to other security required by this
14 section, may be secured by letter or line of credit issued by a
15 financial institution or as provided in the borrowing
16 resolution.

17 (2) The issuance of notes under this section is subject to
18 the agency financing reporting act, 2002 PA 470, MCL 129.171 TO
19 129.177.

20 Enacting section 1. This amendatory act does not take
21 effect unless House Bill No. 5467 of the 91st Legislature is
22 enacted into law.