

SENATE BILL No. 220

February 26, 2013, Introduced by Senators BOOHER, WALKER, HANSEN, JONES, MARLEAU, GREEN and CASPERSON 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 sections 11 and 11c (MCL 247.661 and 247.661c), section 11 as amended by 2002 PA 639 and section 11c as amended by 2002 PA 498.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) A fund to be known as the state trunk line fund
2 is established and shall be set up and maintained in the state
3 treasury as a separate fund. The money deposited in the state trunk
4 line fund is appropriated to the ~~state transportation~~ department
5 for the following purposes in the following order of priority:

6 (a) For the payment, but only from money restricted as to use
7 by section 9 of article IX of the state constitution of 1963, of
8 bonds, notes, or other obligations in the following order of
9 priority:

10 (i) For the payment of contributions **PLEGGED BEFORE JULY 18,**
11 **1979 AND** required to be made by the state highway commission or the
12 state transportation commission under contracts entered into before

1 July 18, 1979, under 1941 PA 205, MCL 252.51 to 252.64, ~~which~~
2 ~~contributions have been pledged before July 18, 1979,~~ for the
3 payment of the principal and interest on bonds issued under 1941 PA
4 205, MCL 252.51 to 252.64, for the payment of which a sufficient
5 sum is irrevocably appropriated.

6 (ii) For the payment of the principal and interest upon bonds
7 designated "State of Michigan, State Highway Commissioner, Highway
8 Construction Bonds, Series I", dated September 1, 1956, in the
9 aggregate principal amount of \$25,000,000.00, issued pursuant to
10 former 1955 PA 87 and the resolution of the state administrative
11 board adopted August 6, 1956, for the payment of which a sufficient
12 sum is irrevocably appropriated.

13 (iii) For the payment of the principal and interest on bonds
14 issued under section 18b for transportation purposes other than
15 comprehensive transportation purposes as defined by law and the
16 payment of contributions ~~of~~ **PLEGGED TO THE PAYMENT OF PRINCIPAL AND**
17 **INTEREST ON BONDS ISSUED UNDER SECTION 18D AND CONTRACTS ENTERED**
18 **INTO UNDER SECTION 18D BY** the state highway commission or state
19 transportation commission to be made pursuant to contracts entered
20 into under section 18d. ~~, which contributions are pledged to the~~
21 ~~payment of principal and interest on bonds issued under the~~
22 ~~authorization of section 18d and contracts executed pursuant to~~
23 ~~that section.~~ A sufficient portion of the fund is irrevocably
24 appropriated to pay, when due, the principal and interest on bonds
25 or notes issued under section 18b for purposes other than
26 comprehensive transportation purposes as defined by law, and to pay
27 the annual contributions of the state highway commission and the

1 state transportation commission ~~as~~**THAT** are pledged for the payment
2 of bonds issued pursuant to contracts authorized by section 18d.

3 (b) For the transfer of funds appropriated pursuant to section
4 ~~10(1)(g)~~**10(1)(H)** to the transportation economic development fund,
5 but the transfer shall be reduced each fiscal year by the amount of
6 debt service to be paid in that year from the state trunk line fund
7 for bonds, notes, or other obligations issued to fund projects of
8 the transportation economic development fund, which ~~amount~~ shall be
9 certified by the department.

10 (c) For the transfer of funds appropriated pursuant to section
11 10(1)(a) to the ~~railroad~~**RAIL** grade crossing account in the state
12 trunk line fund for expenditure for rail grade crossing improvement
13 purposes at rail grade crossings on public roads and streets under
14 the jurisdiction of ~~the~~**THIS** state, counties, cities, or villages.
15 Projects shall be selected for funding in accordance with the
16 following:

17 (i) Not more than 50% or less than 30% of these funds and
18 matched federal funds shall be expended for state trunk line
19 projects.

20 (ii) In prioritizing projects for these funds, in whole or in
21 part, the department shall consider train and vehicular traffic
22 volumes, accident history, traffic control device improvement
23 needs, and the availability of funding.

24 (iii) Consistent with the other requirements for these funds,
25 the first priority for funds deposited pursuant to this subdivision
26 for rail grade crossing improvements and retirement shall be to
27 match federal funds from the railroad-highway grade crossing

1 improvement program or other comparable federal programs if a match
2 is required under federal law.

3 (iv) If the department and the road authority with jurisdiction
4 over the crossing formally agree that the grade crossing should be
5 eliminated by permanent closing of the public road or street, the
6 physical removal of the crossing, roadway within railroad rights of
7 way, and street termination treatment ~~will~~**SHALL** be negotiated
8 between the road authority and railroad company. The funds provided
9 to the road authority as a result of the crossing closure ~~will~~
10 **SHALL** be credited to its account representing the same road or
11 street system on which the crossing is located and shall be used
12 for any transportation purpose within that road authority's
13 jurisdiction.

14 (d) For the total operating expenses of the state trunk line
15 fund for each fiscal year as appropriated by the legislature.

16 (e) For the preservation of state trunk line highways and
17 bridges.

18 (f) For the opening, widening, improving, construction, and
19 reconstruction of state trunk line highways and bridges, including
20 the acquisition of necessary rights of way and the work incidental
21 to that opening, widening, improving, construction, or
22 reconstruction. ~~These sums~~**SUMS** in the state trunk line fund not
23 otherwise appropriated, distributed, determined, or set aside by
24 law shall be used for the construction or reconstruction of the
25 national system of interstate and defense highways, referred to in
26 this act as "the interstate highway system", to the extent
27 necessary to match federal aid funds as the federal aid funds

1 become available for that purpose; and ~~7~~for the construction and
2 reconstruction of the state trunk line system.

3 (g) The ~~state transportation~~ department may enter into
4 agreements with county road commissions, ~~and with cities, and OR~~
5 villages to perform work on a highway, road, or street. The
6 agreements may provide for the performance by any of the
7 contracting parties of any of the work contemplated by the contract
8 including engineering services, and the acquisition of rights of
9 way in connection with the work, by purchase or condemnation by any
10 of the contracting parties in its own name, and for joint
11 participation in the costs, but only to the extent that the
12 contracting parties are otherwise authorized by law to expend money
13 on the highways, roads, or streets. The ~~state transportation~~
14 department also may contract with a county road commission, city,
15 ~~and OR~~ village to advance money to a county road commission, city,
16 ~~and OR~~ village agency to pay ~~their~~ **THE** costs of improving railroad
17 grade crossings on the terms and conditions agreed to in the
18 contract. A contract may be executed before or after the state
19 transportation commission borrows money for the purpose of
20 advancing money to a county road commission, city, or village, but
21 the contract shall be executed before the advancement of any money
22 to a county road commission, city, or village by the state
23 transportation commission, and shall provide for the full
24 reimbursement of any advancement by a county road commission, city,
25 or village to the ~~state transportation~~ department, with interest,
26 within 15 years after advancement, from any available revenue
27 sources of the county road commission, city, or village or, if

1 provided in the contract, by deduction from the periodic
2 disbursements of any money returned by ~~the~~**THIS** state to the county
3 road commission, city, or village. **BEGINNING ON OCTOBER 1, 2013, IN**
4 **ENTERING INTO A CONTRACT UNDER THIS SUBDIVISION OR UNDER SECTION**
5 **11C, THE DEPARTMENT SHALL SOLICIT BIDS FROM AND GIVE PREFERENCE TO**
6 **A COUNTY ROAD COMMISSION FOR WORK TO BE PERFORMED ON A STATE TRUNK**
7 **LINE HIGHWAY WITHIN THAT COUNTY.**

8 (h) For providing inventories of supplies and materials
9 required for the activities of the ~~state transportation~~ department.
10 The ~~state transportation~~ department may purchase supplies and
11 materials for these purposes, with payment to be made ~~out of~~**FROM**
12 the state trunk line fund ~~to be~~**AND** charged **BASED** on the ~~basis of~~
13 issues from inventory in accordance with the accounting and
14 purchasing laws of this state.

15 (2) Notwithstanding any other provision of this act, at least
16 90% of state revenue appropriated annually to the state trunk line
17 fund less the amounts described in subdivisions (a) to (i) shall be
18 expended annually by the ~~state transportation~~ department for the
19 preservation of highways, roads, streets, and bridges and for the
20 payment of debt service on bonds, notes, or other obligations
21 described in subsection (1)(a) issued after July 1, 1983 ~~,~~ for the
22 purpose of providing funds for the preservation of highways, roads,
23 streets, and bridges. Of the amounts appropriated for state trunk
24 line projects, the department shall, where possible, secure
25 warranties of not less than 5-year full replacement guarantee for
26 contracted construction work. If an appropriate certificate is
27 filed under section 18e, but only to the extent necessary, this

1 subsection ~~shall~~**DOES** not prohibit the use of any amount of money
2 restricted as to use by section 9 of article IX of the state
3 constitution of 1963 and deposited in the state trunk line fund for
4 the payment of debt service on bonds, notes, or other obligations
5 pledging for the payment ~~thereof~~**OF THAT DEBT SERVICE** money
6 restricted as to use by section 9 of article IX of the state
7 constitution of 1963 and deposited in the state trunk line fund,
8 whenever issued, as specified under subsection (1)(a). The amounts
9 ~~which~~**THAT** are deducted from the state trunk line fund for the
10 purpose of the calculation required by this subsection are as
11 follows:

12 (a) Amounts expended for the purposes described in subsection
13 (1)(a) for the payment of debt service on bonds, notes, or other
14 obligations issued before July 2, 1983.

15 (b) Amounts expended to provide the state matching requirement
16 for projects on the national highway system and for the payment of
17 debt service on bonds, notes, or other obligations issued after
18 July 1, 1983, for the purpose of providing funds for the state
19 matching requirements for projects on the national highway system.

20 (c) Amounts expended for the construction of a highway,
21 street, road, or bridge to 1 or more of the following or for the
22 payment of debt service on bonds, notes, or other obligations
23 issued after July 1, 1983, for the purpose of providing funds for
24 the construction of a highway, street, road, or bridge to 1 or more
25 of the following:

26 (i) A location for which a building permit has been obtained
27 for the construction of a manufacturing or industrial facility.

1 (ii) A location for which a building permit has been obtained
2 for the renovation of, or addition to, a manufacturing or
3 industrial facility.

4 (d) Amounts expended for capital outlay other than for
5 highways, roads, streets, and bridges or to pay debt service on
6 bonds, notes, or other obligations issued after July 1, 1983, for
7 the purpose of providing funds for capital outlay other than for
8 highways, roads, streets, and bridges.

9 (e) Amounts expended for the operating expenses of the ~~state~~
10 ~~transportation~~ department other than the units of the department
11 performing the functions assigned on January 1, 1983 to the bureau
12 of highways.

13 (f) Amounts expended pursuant to contracts entered into before
14 January 1, 1983.

15 (g) Amounts expended for the purposes described in subsection
16 (5).

17 (h) Amounts appropriated for deposit in the transportation
18 economic development fund and the rail grade crossing account
19 ~~pursuant to UNDER~~ section ~~10(1)(g)~~ **10(1)(H)** and 10(1)(a).

20 (i) Upon the affirmative recommendation of the director of the
21 ~~state transportation~~ department and the approval by resolution of
22 the state transportation commission, ~~these~~ amounts expended for
23 projects vital to the economy of this state, a region, or local
24 area or the safety of the public. The resolution shall state the
25 cost of the project exempted from this subsection.

26 (3) Notwithstanding any other provision of this act, the ~~state~~
27 ~~transportation~~ department shall expend annually at least 90% of the

1 federal revenue distributed to the credit of the state trunk line
2 fund in that year, except for federal revenue expended for the
3 purposes described in subsection (2)(b), (c), (f), and (i) and for
4 the payment of notes issued under section 18b(9) on the
5 preservation of highways, roads, streets, and bridges. The
6 requirement of this subsection ~~shall be~~ **IS** waived if compliance
7 would cause this state to be ineligible ~~according to~~ **UNDER** federal
8 law for federal revenue, but only to the extent necessary to make
9 this state eligible ~~according to~~ **UNDER** federal law for that
10 revenue.

11 (4) Notwithstanding any other provision of this section, the
12 ~~state transportation department~~ may loan money to county road
13 commissions, cities, and villages for paying capital costs of **THE**
14 transportation purposes described in the second paragraph of
15 section 9 of article IX of the state constitution of 1963 from the
16 proceeds of bonds or notes issued pursuant to section 18b or from
17 the state trunk line fund. Loans made directly from the state trunk
18 line fund shall be made only after provision of funds for the
19 purposes specified in subsection (1)(a) to (f). Loans described in
20 this subsection are not subject to the revised municipal finance
21 act, 2001 PA 34, MCL 141.2101 to 141.2821.

22 (5) County road commissions, cities, and villages may borrow
23 money from the proceeds of bonds or notes issued under section 18b
24 or the state trunk line fund for the purposes set forth in
25 subsection (4) that ~~shall be~~ **IS** repayable, with interest, from 1 or
26 more of the following:

27 (a) The money to be received by the county road commission,

1 city, or village from the Michigan transportation fund, except to
2 the extent the money has been or may in the future be pledged by
3 contract ~~in accordance with~~ **UNDER** 1941 PA 205, MCL 252.51 to
4 252.64, or has been or may in the future be pledged for the payment
5 of the principal and interest upon notes issued ~~pursuant to~~ **UNDER**
6 1943 PA 143, MCL 141.251 to 141.254, or has been or may in the
7 future be pledged for the payment of principal and interest upon
8 bonds issued under section 18c or 18d, or has been or may in the
9 future be pledged for the payment of the principal and interest
10 upon bonds issued pursuant to 1952 PA 175, MCL 247.701 to 247.707.

11 (b) Any other legally available funds of the city, village, or
12 county road commission, other than the general funds of the county.

13 (6) ~~Loans~~ **IF REQUIRED BY THE DEPARTMENT, LOANS** made pursuant
14 ~~to~~ **UNDER** subsection (4) ~~if required by the state transportation~~
15 ~~department may be~~ **ARE** payable by deduction by the state treasurer,
16 upon direction of the ~~state transportation~~ department, from the
17 periodic disbursements of any money returned by ~~the~~ **THIS** state
18 under this act to the county road commission, city, or village, but
19 only after sufficient money has been returned to the county road
20 commission, city, or village to provide for the payment of
21 contractual obligations incurred or to be incurred and principal
22 and interest on notes and bonds issued or to be issued under 1941
23 PA 205, MCL 252.51 to 252.64, 1943 PA 143, MCL 141.251 to 141.254,
24 1952 PA 175, MCL 247.701 to 247.707, or section 18c or 18d. The
25 interest rates and payment schedules of any loans made from the
26 proceeds of bonds or notes issued pursuant to section 18b shall be
27 established by the ~~state transportation~~ department to conform as

1 closely as practicable to the interest rate and repayment schedules
2 on the bonds or notes issued to make the loans. However, the ~~state~~
3 ~~transportation~~ department may allow for the deferral of the first
4 payment of interest or principal on the loans for a period ~~of~~ not
5 to exceed 1 year after the respective first payment of interest or
6 principal on the bonds or notes issued to make the loans.

7 (7) The amount borrowed by a county road commission, city, or
8 village ~~pursuant to~~ **UNDER** subsection (5) shall not be included in,
9 or charged against, any constitutional, statutory, or charter debt
10 limitation of the county, city, or village and shall not be
11 included in the determination of the maximum annual principal and
12 interest requirements of, or the limitations upon, the maximum
13 annual principal and interest incurred under 1941 PA 205, MCL
14 252.51 to 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175,
15 MCL 247.701 to 247.707, or section 18c or 18d.

16 (8) The county road commission, city, or village is not
17 required to seek or obtain the approval of the electors, the
18 municipal finance commission or its successor agency, or, except as
19 provided in this subsection, the department of treasury to borrow
20 money ~~pursuant to~~ **UNDER** subsection (5). The borrowing is not
21 subject to the revised municipal finance act, 2001 PA 34, MCL
22 141.2101 to 141.2821, or to section ~~5(g)~~ **5(1)(G)** of the home rule
23 city act, 1909 PA 279, MCL 117.5. The ~~state transportation~~
24 department shall give at least 10 days' notice to the state
25 treasurer of its intention to make a loan under subsection (4). If
26 the state treasurer gives notice to the director of the ~~state~~
27 ~~transportation~~ department within 10 days ~~of~~ **AFTER** receiving the

1 notice from the ~~state transportation~~ department, that, based upon
2 the then existing financial or credit situation of the county road
3 commission, city, or village, it would not be in the best interests
4 of the state to make a loan under subsection (4) to the county road
5 commission, city, or village, the loan shall not be made unless the
6 state treasurer, after a hearing, if requested by the affected
7 county road commission, city, or village, subsequently gives notice
8 to the director of the ~~state transportation~~ department that the
9 loan may be made on the conditions that the state treasurer
10 specifies.

11 (9) The state transportation commission may borrow money and
12 issue bonds and notes under ~~, and pursuant to the requirements of,~~
13 section 18b to make loans to county road commissions, cities, and
14 villages for the purposes described in the second paragraph of
15 section 9 of article IX of the state constitution of 1963, as
16 provided in subsection (4). A single issue of bonds or notes may be
17 issued for the purposes specified in subsection (4) and for the
18 other purposes specified in section 18b. The house and senate
19 transportation appropriations subcommittees shall be notified by
20 the department if there are extras and overruns sufficient to
21 require approval of either the state administrative board or the
22 commission, or both, on any contract between the department and a
23 local road agency or a private business.

24 (10) The director of the ~~state transportation~~ department,
25 after consultation with representatives of the interests of county
26 road commissions, cities, and villages, shall establish, by
27 intergovernmental communication, procedures for the implementation

1 and administration of the loan program established under
2 subsections (4) to (9).

3 (11) Not more than 10% per year of all of the funds received
4 by and returned to the ~~state transportation~~ department from any
5 source for the purposes of this section may be expended for
6 administrative expenses. The department ~~shall be~~ **IS** subject to
7 section 14(5) if more than 10% per year is expended for
8 administrative expenses. As used in this subsection,
9 "administrative expenses" means those expenses that are not
10 assigned including, but not limited to, specific road construction
11 or preservation projects, and are often referred to as general or
12 supportive services. Administrative expenses ~~shall~~ **DO** not include
13 net equipment expense, net capital outlay, debt service principal
14 and interest, and payments to other state or local offices ~~which~~
15 **THAT** are assigned, but not limited to, specific road construction
16 projects or preservation activities.

17 (12) Any performance audits of the department shall be
18 conducted according to government auditing standards issued by the
19 United States general accounting office.

20 (13) Contracts entered into to advance money to a county road
21 commission, city, or village under subsection (1)(g) are not
22 subject to the revised municipal finance act, 2001 PA 34, MCL
23 141.2101 to 141.2821.

24 (14) As used in this section, "rail grade crossing improvement
25 purposes" means 1 or more of the following:

26 (a) The installation and modernization of active and passive
27 warning devices at railroad grade crossings.

1 (b) The installation or improvement of grade crossing
2 surfaces.

3 (c) Modification, relocation, or modernization of railroad
4 grade crossing active and passive warning devices necessitated by
5 roadway improvement projects.

6 (d) Test installations of innovative warning devices or other
7 innovative applications.

8 (e) Construction of new grade separations.

9 (f) A cash incentive payment made pursuant to subsection
10 (1)(c)(iv) for any public road or street crossing, in an amount no
11 greater than the cost of installing flashing light signals and half
12 roadway gates at the crossing.

13 (g) Any other work that would be eligible for funding under
14 the federal railroad-highway grade crossing improvement program or
15 other comparable programs.

16 Sec. 11c. ~~All~~ **SUBJECT TO SECTION 11(1)(G)**, **ALL** federal aid
17 construction projects, **AND** all other projects of the department
18 concerning highways, streets, roads, and bridges, whose cost
19 exceeds \$100,000.00 for construction or preservation as defined in
20 section 10c, shall be performed by contract awarded by competitive
21 bidding unless the department ~~shall affirmatively find~~ **FINDS** that
22 under the circumstances relating to those projects, some other
23 method is in the public interest. ~~All of these~~ **THE DEPARTMENT SHALL**
24 **REPORT ITS** findings ~~shall be reported to~~ the state transportation
25 commission 90 days before work is commenced and promptly in writing
26 to the appropriations committees of the senate and house of
27 representatives. However, in a case in which the department

1 determines emergency action is required, the reports need not be
2 filed before work is commenced but shall be promptly filed. Local
3 road agencies that make a decision not to perform construction or
4 preservation projects exceeding \$100,000.00 shall contract for this
5 work through competitive bidding.