

HOUSE BILL No. 5611

February 25, 1998, Introduced by Reps. Harder, Prusi, Baird, Hale, Baade, DeVuyst, Middleton, Hammerstrom, Green, LaForge, Anthony and Dobb and referred to the Committee on Appropriations.

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

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 12 (MCL 247.662), as amended by 1997 PA 79.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12. (1) The amount distributed to the county road com-
2 missions shall be returned to the county treasurers in the
3 manner, for the purposes, and under the terms and conditions
4 specified in this section. The department and the county road
5 association of Michigan shall jointly develop incentives for
6 counties to establish statewide purchasing pools for the more
7 efficient use of Michigan transportation funds.

8 (2) Each county road commission shall be reimbursed in an
9 amount up to \$10,000.00 per year for the sum paid to a licensed
10 professional engineer employed or retained by the county road
11 commission in the previous year. The sum shall be returned to
12 each county road commission certified by the state transportation
13 department as complying with this subsection regarding the
14 employment of an engineer.

15 (3) An amount equal to 1% of the total amount returned to
16 the county road commissions from the Michigan transportation fund
17 during the prior calendar year shall be withheld annually from

1 the counties' November monthly distribution provided for in
2 section 17, and the amount shall be returned to the county road
3 commissions for snow removal purposes as provided in
4 section 12a.

5 (4) An amount equal to 10% of the total amount returned to
6 the county road commissions from the Michigan transportation fund
7 shall be returned to each county road commission having county
8 primary, or county local road, or both, mileage in the urban
9 areas as determined pursuant to section 12b. This sum shall be
10 distributed pursuant to section 12b. The return shall be in
11 addition to the amounts provided in subsections (6) and (7) and
12 for the purposes stated in those subsections.

13 (5) An amount equal to 4% of the total amount returned to
14 the county road commissions from the Michigan transportation fund
15 shall be returned to the county road commissions in the same per-
16 centages as provided in subsection (7). All money returned to
17 the county road commissions as provided in this subsection shall
18 be expended by the county road commissions for the maintenance,
19 improvement, construction, reconstruction, acquisition, and
20 extension of county local road systems and shall be in addition
21 to the amounts provided in subsection (7). EXCEPT FOR A COUNTY
22 ROAD COMMISSION THAT ALREADY HAS A LOCAL ROAD FUNDING PROGRAM IN
23 EFFECT SIMILAR TO THE FOLLOWING REQUIREMENTS, THE AMOUNT RETURNED
24 AS PROVIDED IN THIS SUBSECTION SHALL BE DIVIDED AMONG THE SEVERAL
25 TOWNSHIPS IN THE COUNTY IN THE FOLLOWING MANNER:

26 (A) SIXTY-FIVE PERCENT OF THE AMOUNT IN THE SAME PROPORTION
27 THAT THE TOTAL MILEAGE IN THE COUNTY LOCAL ROAD SYSTEM OUTSIDE OF

1 THE INCORPORATED VILLAGES AND CITIES IN EACH TOWNSHIP BEARS TO
2 THE TOTAL MILEAGE OUTSIDE OF THE INCORPORATED VILLAGES AND CITIES
3 IN THE COUNTY LOCAL ROAD SYSTEM OF THE COUNTY.

4 (B) THIRTY-FIVE PERCENT OF THE AMOUNT IN THE SAME PROPORTION
5 THAT THE TOTAL POPULATION OUTSIDE OF THE INCORPORATED VILLAGES
6 AND CITIES IN EACH TOWNSHIP BEARS TO THE TOTAL POPULATION OUTSIDE
7 OF INCORPORATED VILLAGES AND CITIES OF THE COUNTY ACCORDING TO
8 THE MOST RECENT STATEWIDE FEDERAL CENSUS PRECEDING THE
9 DISTRIBUTION.

10 THE AMOUNTS DIVIDED UNDER THIS SUBSECTION SHALL BE RETAINED BY
11 THE COUNTY ROAD COMMISSION IN A SEPARATE ACCOUNT. THE COUNTY
12 ROAD COMMISSION SHALL NOTIFY EACH TOWNSHIP WITHIN THE COUNTY OF
13 THE FUNDS AVAILABLE UNDER THIS SUBSECTION. THE FUNDS PROVIDED
14 FOR IN THIS SECTION SHALL BE EXPENDED ONLY AS DIRECTED BY EACH
15 INDIVIDUAL TOWNSHIP IF THE TOWNSHIP FILES WITH THE COUNTY ROAD
16 COMMISSION BEFORE OCTOBER 1 OF EACH YEAR A 3-YEAR PLAN SHOWING
17 THE PROPOSED PROJECTS FOR WHICH THE FUNDS ARE TO BE USED. A
18 TOWNSHIP 3-YEAR PLAN MAY PROVIDE THAT FUNDS MAY BE ACCUMULATED
19 FOR A PERIOD OF NOT MORE THAN 3 YEARS. THE PLAN MUST PROVIDE FOR
20 THE TOWNSHIP TO MATCH THE AMOUNT ALLOCATED TO THAT TOWNSHIP UNDER
21 THIS SUBSECTION. IN ANY YEAR A TOWNSHIP DOES NOT PROVIDE A PLAN
22 TO THE COUNTY ROAD COMMISSION BEFORE OCTOBER 1, THE AMOUNT ALLO-
23 CATED TO THAT TOWNSHIP SHALL BE DIVIDED ON A PRO RATA BASIS AMONG
24 THE OTHER TOWNSHIPS SUBMITTING PLANS. WHEN FUNDS ARE REDIVIDED
25 AS PROVIDED IN THIS SUBSECTION, TOWNSHIPS SUBMITTING PLANS MAY
26 AMEND THEIR PLAN TO ADDRESS THE ADDITIONAL FUNDS. FUNDS NOT

1 SPENT BY A TOWNSHIP UNDER THIS SUBSECTION WITHIN 3 YEARS AFTER
2 BEING ALLOCATED SHALL REVERT BACK TO THE COUNTY ROAD COMMISSION.

3 (6) Seventy-five percent of the remainder of the total
4 amount to be returned to the counties shall be expended by each
5 county road commission for the maintenance, improvement, con-
6 struction, reconstruction, acquisition, and extension of the
7 county primary road system, including the acquisition of a neces-
8 sary right of way for the system, work incidental to the system,
9 and a roadside park or motor parkway appurtenant to the system,
10 and shall be returned to the counties as follows:

11 (a) Three-fourths of the amount in proportion to the amount
12 received within the respective county during the 12 months next
13 preceding the date of each monthly distribution, as specific
14 taxes upon registered motor vehicles under the Michigan vehicle
15 code, 1949 PA 300, MCL 257.1 to 257.923.

16 (b) One-tenth of the amount in the same proportion that the
17 total mileage in the county primary road system of each county
18 bears to the total mileage in all of the county primary road sys-
19 tems of the state.

20 (c) One eighty-third of the remaining 15% of the amount to
21 each county.

22 (7) The balance of the remainder of the total amount to be
23 returned to counties shall be expended by each county road com-
24 mission for the maintenance, improvement, construction, recon-
25 struction, acquisition, and extension of the county local road
26 system as defined by this act, including the acquisition of a
27 necessary right of way for the system, work incidental to the

1 system, and a roadside park or motor parkway appurtenant to the
2 system, and shall be returned to the counties as follows:

3 (a) Sixty-five percent of the amount in the same proportion
4 that the total mileage in the county local road system of each
5 county bears to the total mileage in all of the county local road
6 systems of the state.

7 (b) Thirty-five percent of the amount in the same proportion
8 that the total population outside of incorporated municipalities
9 in each county bears to the total population outside of incorpo-
10 rated municipalities in all of the counties of the state, accord-
11 ing to the most recent statewide federal census as certified at
12 the beginning of the state fiscal year.

13 (8) Money deposited in, or becoming a part of the county
14 road funds of a board of county road commissioners shall be
15 expended first for the payment of principal and interest on the
16 bonds, for the payment of contractual contributions pledged for
17 the payment of bonds, for debt service requirements for the pay-
18 ment of contractual contributions pledged for the payment of
19 bonds, and for debt service requirements for the payment of notes
20 and loans in the following order of priority:

21 (a) For the payment of contributions required to be made by
22 a board of county road commissioners under a contract entered
23 into under 1941 PA 205, MCL 252.51 to 252.64, which contributions
24 have been pledged for the payment of the principal and interest
25 on bonds issued under that act, or for the payment of total debt
26 service requirements upon notes issued by a board of county road
27 commissioners under 1943 PA 143, MCL 141.251 to 141.254.

1 (b) For the payment of principal and interest upon bonds
2 issued under section 18c, and the payment of contributions of a
3 board of county road commissioners to be made pursuant to con-
4 tracts entered into under section 18d, which contributions are
5 pledged to the payment of principal and interest on bonds issued
6 after June 30, 1957, under the authorization of section 18c and
7 contracts executed pursuant to its provisions.

8 (c) For the payment of principal and interest upon loans
9 received pursuant to section 11(7), to the extent other funds
10 have not been made available for that payment.

11 (9) Not to exceed 30% per year of the amount returned to a
12 county for use on the county primary road system may be expended,
13 with or without matching, on the county local road system of that
14 county. Not to exceed 15% per year of the amount returned to a
15 county for expenditure on the county local road system may be
16 used, with or without matching, on the county primary road system
17 of that county, and not to exceed an additional 15% per year of
18 the amount returned to a county for expenditure on the county
19 local road system, may, in case of an emergency or with the
20 approval of the state transportation department, be expended,
21 with or without matching, on the county primary road system of
22 that county. An amount returned to a county for and on account
23 of county local roads, under this section, in excess of the total
24 amount paid into the county treasury each year by all of the
25 townships of that county for and on account of the county local
26 roads pursuant to section 14(6) may be transferred to and
27 expended on the county primary road system of that county.

1 (10) Not less than 20% per year of the funds returned to a
2 county by this section shall be expended for snow and ice remov-
3 al, the construction or reconstruction of a new highway or exist-
4 ing highway, and the acquisition of a necessary right of way for
5 those highways, and work incidental to those highways, or for the
6 servicing of bonds issued by the county for these purposes.

7 Surplus funds may be expended for the development, construction,
8 or repair of an off-street parking facility.

9 (11) Not more than 5% per year of the funds returned to a
10 county for the county primary road system and the county local
11 road system shall be expended for the maintenance, improvement,
12 or acquisition of appurtenant roadside parks and motor parkways.

13 (12) Funds returned to a county shall be expended by the
14 county road commission for the purposes provided in this section
15 and shall be deposited by the county treasurer in a designated
16 county depository, in a separate account to the credit of the
17 county road fund, and shall be paid out only upon the order of
18 the county road commission, and interest accruing on the money
19 shall become a part of, and be deposited with the county road
20 fund.

21 (13) In a county to which the funds are returned the func-
22 tion of the county road commission shall be limited to the forma-
23 tion of policy and the performance of the official duties imposed
24 by law and delegated by the county board of commissioners. A
25 member of the county road commission shall not be employed indi-
26 vidually in any other capacity for other duties with the county
27 road commission.

1 (14) A county road commission may enter into an agreement
2 with a county road commission of an adjacent county and with a
3 city or village to perform work on a highway, road, or street,
4 and with the state transportation department with respect to a
5 state trunk line and connecting links of the state trunk line
6 within the limits of the county or adjacent to the county. The
7 agreement may provide for the performance by each contracting
8 party of the work contemplated by the contract including engi-
9 neering services and the acquisition of rights of way in connec-
10 tion with the work contemplated, by purchase or condemnation, by
11 any of the contracting parties in its own name and the agreement
12 may provide for joint participation in the costs.

13 (15) Money distributed from the Michigan transportation fund
14 may be expended for construction purposes on county local roads
15 only to the extent matched by money from other sources. However,
16 Michigan transportation funds may be expended for the construc-
17 tion of bridges on the county local roads in an amount not to
18 exceed 75% of the cost of the construction of local road
19 bridges. This subsection does not apply to section 11b.

20 (16) Notwithstanding any other provision of this act, at
21 least 90% of the state revenue returned annually to the county
22 road commission from the Michigan transportation fund less the
23 amounts described in subdivisions (a) to (e) shall be expended
24 annually by the county road commission for the maintenance of
25 highways, roads, streets, and bridges, and for the payment of
26 contractual contributions pledged for the payment of bonds or
27 portions of bonds, debt service requirements for the payment of

1 bonds or portions of bonds, and debt service requirements for the
2 payment of notes and loans or portions of notes and loans issued
3 or received after July 1, 1983, for the purpose of providing
4 funds for the maintenance of highways, roads, streets, and
5 bridges. If an appropriate certificate is filed under
6 subsection (19) but only to the extent necessary, this subsection
7 shall not prohibit the use of any amount of state revenue
8 returned annually to the county road commissions for the payment
9 of contractual contributions pledged for the payment of bonds,
10 for debt service requirements for the payment of bonds, and for
11 debt service requirements for the payment of notes or loans,
12 whenever issued or received, as specified under subsection (8).
13 The amounts which are deducted from the state revenue returned to
14 a county road commission from the Michigan transportation fund,
15 for the purpose of the calculation required by this subsection
16 are as follows:

17 (a) Amounts expended for the purposes described in subsec-
18 tion (8) for bonds, notes, loans, or other obligations issued or
19 received before July 2, 1983.

20 (b) Amounts expended for the administrative costs of the
21 county road commission.

22 (c) Amounts expended for capital outlay projects for equip-
23 ment and buildings, and for the payment of contractual contribu-
24 tions pledged for the payment of bonds, for debt service require-
25 ments for the payment of bonds, and for debt service requirements
26 for the payment of notes and loans issued or received after

1 July 1, 1983, for the purpose of providing funds for capital
2 outlay projects for equipment and buildings.

3 (d) Amounts expended for projects vital to the economy of
4 the local area or the safety of the public in the local area.
5 Before these amounts can be deducted, the governing body over the
6 county road commission or the county road commission, as applica-
7 ble, shall pass a resolution approving these projects. This res-
8 olution shall state which projects will be funded and the cost of
9 each project. A copy of each approved resolution shall be for-
10 warded immediately to the department.

11 (e) Amounts expended in urban areas as determined pursuant
12 to section 12b.

13 (17) As used in this subsection, "urban routes" means those
14 portions of 2 lane county primary roads within an urban area
15 which has average daily traffic in excess of 15,000.

16 Notwithstanding any other provision of this act, except as pro-
17 vided in this subsection, a county road commission shall expend
18 annually at least 90% of the federal revenue distributed to the
19 use of the county road commission for highways, roads, streets,
20 and bridges, less the amount expended on urban routes for other
21 than maintenance purposes and the amount expended for
22 hard-surfacing of gravel roads on the federal-aid system, on the
23 maintenance of highways, roads, streets, and bridges. A county
24 road commission may expend in a year less than 90% of the federal
25 revenue distributed to the use of the county road commission for
26 highways, roads, streets, and bridges, less the amount expended
27 on urban routes for other than maintenance purposes and the

1 amount expended for hard-surfacing of gravel roads on the
2 federal-aid system, on the maintenance of highways, roads,
3 streets, and bridges, if that year is part of a 3-year period in
4 which at least 90% of the total federal revenue distributed in
5 the 3-year period to the use of the county road commission for
6 highways, roads, streets, and bridges, less the amount expended
7 on urban routes for other than maintenance purposes and the
8 amount expended for hard-surfacing of gravel roads on the
9 federal-aid system, is expended on the maintenance of highways,
10 roads, streets, and bridges. If a county road commission expends
11 in a year less than 90% of the federal revenue distributed to the
12 use of the county road commission for highways, roads, streets,
13 and bridges, less the amount expended on urban routes for other
14 than maintenance purposes and the amount expended for
15 hard-surfacing of gravel roads on the federal-aid system, on the
16 maintenance of highways, roads, streets, and bridges and that
17 year is not a part of a 3-year period in which at least 90% of
18 the total federal revenue distributed in the 3-year period to the
19 use of the county road commission for highways, roads, streets,
20 and bridges, less the amount expended on urban routes for other
21 than maintenance purposes and the amount expended for
22 hard-surfacing of gravel roads on the federal-aid system, is
23 expended on the maintenance of highways, roads, streets, and
24 bridges, the county road commission shall expend in each year
25 subsequent to the 3-year period 100%, or less in 1 year if suffi-
26 cient for the purposes of this subsection, of the federal revenue
27 distributed to the use of the county road commission for

1 highways, roads, streets, and bridges, less the amount expended
2 on urban routes for other than maintenance purposes and the
3 amount expended for hard-surfacing of gravel roads on the
4 federal-aid system, on the maintenance of highways, roads,
5 streets, and bridges until the average percentage spent on the
6 maintenance of highways, roads, streets, and bridges in the
7 3-year period and the subsequent years, less the amount expended
8 on urban routes for other than maintenance purposes and the
9 amount expended for hard-surfacing of gravel roads on the
10 federal-aid system, is at least 90%. A year may be included in
11 only one 3-year period for the purposes of this subsection. The
12 requirements of this subsection shall be waived if compliance
13 would cause the county road commission to be ineligible according
14 to federal law for federal revenue, but only to the extent neces-
15 sary to make the county road commission eligible according to
16 federal law for that revenue. For the purpose of the calcula-
17 tions required by this subsection, the amount expended on urban
18 routes by a county road commission for other than maintenance
19 purposes and the amount expended for hard-surfacing of gravel
20 roads on the federal-aid system shall be deducted from the total
21 federal revenue distributed to the use of the county road
22 commission.

23 (18) As used in this section:

24 (a) "Maintenance" and "maintaining" mean snow removal; erec-
25 tion of traffic control devices and traffic signals and payment
26 of monthly electrical costs for those signals; street cleaning
27 and drainage; seal coating; patching and ordinary repairs;

1 erection and maintenance of traffic signs and markings; safety
2 projects which do not increase through traffic capacity; and the
3 preservation, reconstruction, resurfacing, restoration, and reha-
4 bilitation of highways, roads, streets, and bridges. However,
5 maintenance and maintaining do not include projects which
6 increase the capacity of a highway facility to accommodate that
7 part of the traffic having neither origin nor destination within
8 the local area.

9 (b) "Maintenance" and "maintaining" include widening less
10 than lane width; adding auxiliary turning lanes of 1/2 mile or
11 less; adding auxiliary weaving, climbing, or speed change lanes;
12 and correcting substandard intersections.

13 (19) A county road commission shall certify, which certifi-
14 cation shall, for purposes of the validity of bonds and notes, be
15 conclusive as to the matters stated therein, to the state trans-
16 portation department on or before the issuance of any bonds or
17 notes issued after July 1, 1983, pursuant to 1943 PA 143, MCL
18 141.251 to 141.254, 1941 PA 205, MCL 252.51 to 252.64, or section
19 18c or 18d, for purposes other than the maintenance of highways,
20 roads, streets, and bridges and purposes other than the purposes
21 specified in subsection (16)(c) that its average annual debt
22 service requirements for all bonds and notes or portions of bonds
23 and notes issued after July 1, 1983, for purposes other than the
24 maintenance of highways, roads, streets, and bridges and other
25 than for the purposes specified in subsection (16)(c), including
26 the bond or note to be issued does not exceed 10% of the funds
27 returned to the county road commission pursuant to this act, less

1 the amounts specified in subsection (16)(a), (b), and (c) during
2 the last completed fiscal year of the county road commission. If
3 the purpose for which the bonds or notes are issued is changed
4 after the issuance of the notes or bonds, the change shall be
5 made in such a manner to maintain compliance with the certifica-
6 tion required by this subsection, as of the date the certificate
7 was originally issued, but no such change shall invalidate or
8 otherwise affect the bonds or notes with respect to which the
9 certificate was issued or the obligation to pay debt service on
10 the bonds or notes.

11 (20) In each charter county to which funds are returned
12 under this section, the responsibility for road improvement,
13 maintenance, and traffic operation work, and the development,
14 construction, or repair of off-road parking facilities and con-
15 struction or repair of road lighting shall be coordinated by a
16 single administrator to be designated by the county executive who
17 shall be responsible for and shall represent the charter county
18 in transactions with the state transportation department pursuant
19 to this act.

20 (21) Not more than 10% per year of all of the funds received
21 by and returned to a county from any source for the purposes of
22 this section may be expended for administrative expenses. A
23 county that expends more than 10% for administrative expenses in
24 a year shall be subject to section 14(5) unless a waiver is
25 granted by the department of treasury. As used in this subsec-
26 tion, "administrative expenses" means those expenses that are not
27 assigned including, but not limited to, specific road

1 construction or maintenance projects and are often referred to as
2 general or supportive services. Administrative expenses shall
3 not include net equipment expense, net capital outlay, debt serv-
4 ice principal and interest, and payments to other state or local
5 offices which are assigned, but not limited to, specific road
6 construction projects or maintenance activities.

7 (22) In addition to the financial compliance audits required
8 by law, the department of treasury shall conduct performance
9 audits and make investigations of the disposition of all state
10 funds received by county road commissions, county boards of com-
11 missioners, or any other county governmental agency acting as the
12 county road authority, for transportation purposes to determine
13 compliance with the terms and conditions of this act.

14 Performance audits shall be conducted according to government
15 auditing standards issued by the United States general accounting
16 office. The department of treasury shall provide 6 months notice
17 to the county road commission or county board of commissioners,
18 as applicable, of the standards to be used for audits performed
19 under this subsection prior to the fiscal year in which the audit
20 is conducted. The department shall notify the county road com-
21 mission or county board of commissioners of any subsequent
22 changes to the standards. County road commissions or county
23 boards of commissioners, as applicable, shall make available to
24 the department of treasury the pertinent records for the audit.