

# SENATE BILL No. 1168

April 27, 2004, Introduced by Senators JOHNSON, BROWN, CROUSEY, PATTERSON, SIKKEMA, McMANUS, GILBERT, CASSIS, GARCIA, KUIPERS, BISHOP, GOSCHKA, TOY, STAMAS, BIRKHOLZ, JELINEK, HARDIMAN, GEORGE, VAN WOERKOM, SANBORN, HAMMERSTROM and ALLEN 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 18b (MCL 247.668b), as amended by 2002 PA 498.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 18b. (1) ~~The~~ **Subject to subsection (13), the state**  
 2 transportation commission may borrow money and issue notes or  
 3 bonds for the following purposes:

4       (a) To pay all or any portion of or to make loans, grants, or  
 5 contract payments to pay all or any portion of any capital costs  
 6 for the purposes described in section 9 of article IX of the  
 7 state constitution of 1963.

8       (b) To pay the principal or the principal and interest on  
 9 notes and, if the state transportation commission considers  
 10 refunding to be expedient, to refund bonds payable from money in  
 11 the state trunk line fund or the comprehensive transportation  
 12 fund or received or to be received from the motor vehicle highway  
 13 fund or the Michigan transportation fund regardless of when the  
 14 refunded bonds were issued, by the issuance of new bonds, whether  
 15 or not the bonds to be refunded have matured or are subject to

1 prior redemption or are to be paid, redeemed, or surrendered at  
2 the time of issuance of the refunding bonds; and to issue new  
3 bonds partly to refund bonds or pay notes then outstanding and  
4 partly for any other transportation purpose authorized by this  
5 act.

6 (c) To pay all costs relating to the issuance of the bonds or  
7 notes described in this section, including, but not limited to,  
8 legal, engineering, accounting, and consulting services, interest  
9 on bonds or notes for ~~such~~ **the** period as determined by the  
10 state transportation commission in the resolution authorizing the  
11 bonds or notes and a reserve for payment of principal, interest,  
12 and redemption premiums on the bonds or notes in an amount  
13 determined by the state transportation commission in the  
14 resolution authorizing the bonds or notes.

15 (2) The refunding bonds described in subsection (1)(b) shall  
16 be sold and the proceeds and the earnings or profits from the  
17 investment of those proceeds applied in whole or in part to the  
18 purchase, redemption, or payment of the principal or the  
19 principal and interest of the bonds to be refunded and the  
20 refunding bonds issued by the state transportation commission  
21 under subsection (1)(b) and the costs described in subsection  
22 (1)(c). Refunding notes or bonds shall be considered to be  
23 issued for the same purpose or purposes for which the notes or  
24 bonds to be refunded were issued.

25 (3) The notes or bonds authorized by this section shall be  
26 issued only after authorization by resolution of the state  
27 transportation commission ~~, which~~ **and the authorization by**

1 concurrent resolution of the legislature in subsection (13). The  
2 state transportation commission resolution shall contain the  
3 following:

4 (a) An irrevocable pledge providing for the payment of the  
5 principal and interest on the notes or bonds from money which is  
6 restricted as to use by section 9 of article IX of the state  
7 constitution of 1963 and which is deposited or to be deposited in  
8 the comprehensive transportation fund, in the case of bonds or  
9 notes issued for comprehensive transportation purposes as defined  
10 by law, or in the state trunk line fund, in the case of bonds or  
11 notes issued for transportation purposes described in the second  
12 paragraph of section 9 of article IX of the state constitution of  
13 1963, or in the case of notes or bonds, if the resolution  
14 authorizing the notes or bonds provides, from money received or  
15 to be received by the state transportation department from the  
16 proceeds of bonds or renewal notes to be issued after the date of  
17 the resolution or from money received or to be received from the  
18 proceeds of the grants described in subsection (9). If the  
19 resolution authorizing the bonds or notes so provides, a portion  
20 of the principal or interest on the bonds or notes may be secured  
21 by an irrevocable pledge of money deposited in the comprehensive  
22 transportation fund or the state trunk line fund, and the balance  
23 of the principal and interest secured by an irrevocable pledge of  
24 the proceeds of bonds or renewal notes or money received or to be  
25 received from the proceeds of the grants described in  
26 subsection (9).

27 (b) A brief statement describing the projects for which the

1 notes or bonds are to be issued and in the case of notes or bonds  
2 to pay notes or refund bonds, a description of the notes or bonds  
3 to be paid or refunded. For purposes of this section and section  
4 18k, in connection with bonds issued to fund the loan program  
5 established under section 11(6) to (11), the loan program shall  
6 constitute the project, and it shall not be necessary to specify  
7 the particular item or costs of a particular item to be financed  
8 from any particular loan made under the loan program.

9 (c) The estimated cost of the projects or refunding or  
10 refinancing.

11 (d) The detail of the notes or bonds including the date of  
12 issue, maturity date or dates of the bonds or notes, the maximum  
13 interest rate, the dates of payment of interest, the paying  
14 agents, the transfer agent or agents, the provisions for  
15 registration, the redemption provisions, and the manner of  
16 execution or, as provided in subsection (11)(d), the limitations  
17 within which such detail may be determined by the person  
18 designated by the commission.

19 (4) If after the issuance of notes or bonds, the state  
20 transportation commission **or the legislature** determines that a  
21 project for which the notes or bonds are to be issued should be  
22 changed, the state transportation commission, by resolution,  
23 adopted after ~~the~~ 30 days' notice of intention to adopt the  
24 resolution has been given to the appropriations committees of the  
25 senate and the house of representatives, **or after the legislature**  
26 **has authorized bond issuance in a concurrent resolution under**  
27 **subsection (13)** shall amend the **state transportation commission**

1 resolution authorizing the bonds or notes to change the  
2 description of the project or projects or to substitute a  
3 different project or projects for the project for which the notes  
4 or bonds were issued and shall make other revisions in the  
5 resolution authorizing the notes or bonds with respect to cost as  
6 may be necessary to permit the change in or substitution of a  
7 project or projects.

8 (5) Before October 1, 1979, the total amount of bonds and  
9 notes issued pursuant to this section for comprehensive  
10 transportation purposes as defined by law shall not exceed an  
11 amount as will be serviced as to maximum principal and interest  
12 requirements by a sum equal to the amount deposited to the credit  
13 of the general transportation fund for the fiscal year ending  
14 September 30, 1977. After September 30, 1979, the total amount  
15 of bonds and notes issued pursuant to this section for  
16 comprehensive transportation purposes as defined by law shall not  
17 exceed an amount as will be serviced, out of state funds only, as  
18 to maximum annual principal and interest requirements by an  
19 amount equal to 50% of the total amount of money from taxes, the  
20 use of which money is restricted by section 9 of article IX of  
21 the state constitution of 1963, and which money is deposited in  
22 the state treasury to the credit of the comprehensive  
23 transportation fund during the state fiscal year immediately  
24 preceding the issuance of the bonds or notes.

25 (6) The total amount of bonds and notes issued pursuant to  
26 this section for transportation purposes described in the second  
27 paragraph of section 9 of article IX of the state constitution of

1 1963 shall not exceed an amount as will be serviced as to the  
2 maximum principal and interest requirements by a sum equal to 50%  
3 of the total of the amount of money received from taxes, the use  
4 of which is restricted by section 9 of article IX of the state  
5 constitution of 1963 and which is deposited in the state treasury  
6 to the credit of the state trunk line fund during the state  
7 fiscal year immediately preceding the issuance of the bonds or  
8 notes.

9 (7) The principal or principal and interest or the portion of  
10 principal or interest of bonds or notes which are issued in  
11 anticipation of the issuance of bonds or renewal notes or of  
12 federal grants as provided in subsection (9) and which do not  
13 pledge for their payment money in the state trunk line fund or  
14 the comprehensive transportation fund or money received or to be  
15 received by the state transportation department from the Michigan  
16 transportation fund or the motor vehicle highway fund shall not  
17 be considered to be principal and interest requirements subject  
18 to the limitation set forth in subsections (5) and (6). The  
19 principal of and interest on notes or bonds refunded or for the  
20 refunding of which refunding bonds have been sold, whether the  
21 bonds to be refunded are to be retired at the time of delivery of  
22 the refunding bonds or not, shall not be considered to be  
23 principal and interest requirements subject to the limitation set  
24 forth in subsections (5) and (6).

25 (8) In computing the maximum annual principal and interest  
26 requirements under subsection (6), the total outstanding maximum  
27 annual contributions required to be made by the state highway

1 commission and the state transportation commission pursuant to  
2 contracts entered into under the authorization of section 18d,  
3 which contributions are pledged to the payment of bonds issued  
4 under section 18d, shall be included in the amount.

5 (9) ~~The~~ **Subject to subsection (13), the** state  
6 transportation commission may borrow money and issue notes or  
7 bonds in anticipation of the receipt of grants from the United  
8 States of America or any agency or instrumentality ~~thereof~~ **of**  
9 **the United States** and may pledge for the payment of the  
10 principal, interest, and redemption premiums on ~~such~~ **the** notes  
11 or bonds 1 or more of the following:

12 (a) The proceeds of any grant and any investment earnings or  
13 gain on the grant.

14 (b) If deemed advisable by the state transportation  
15 commission, money which is restricted as to use by section 9 of  
16 article IX of the state constitution of 1963, and which is  
17 deposited or to be deposited in the comprehensive transportation  
18 fund, in the case of bonds or notes issued for comprehensive  
19 transportation purposes as defined by law, or in the state trunk  
20 line fund, in the case of bonds or notes issued for  
21 transportation purposes described in the second paragraph of  
22 section 9 of article IX of the state constitution of 1963.

23 (c) If deemed advisable by the state transportation  
24 commission, money received or to be received by the state from  
25 the sale of the bonds or notes described in this section to be  
26 issued after the issuance of the notes or bonds described in this  
27 subsection and any investment earnings or gain ~~thereon~~ **on the**



1 **notes or bonds.**

2 (10) Bonds or notes may be issued under this section as  
3 separate issues or series with different dates of issuance, but  
4 the aggregate of the bonds or notes shall be subject to the  
5 limitations ~~set forth in~~ of this section.

6 (11) ~~The~~ **After the legislature has approved the issuance of**  
7 **bonds or notes under subsection (13), the** state transportation  
8 commission in determining to issue bonds or notes may do 1 or  
9 more of the following:

10 (a) Authorize and enter into insurance contracts, agreements  
11 for lines of credit, letters of credit, commitments to purchase  
12 obligations, remarketing agreements, reimbursement agreements,  
13 and any other transactions to provide security to assure timely  
14 payment of any bonds or notes.

15 (b) Authorize payment from the proceeds of the bonds or notes  
16 or other funds available, of the cost of issuance, including, but  
17 not limited to, fees for placement, fees or charges for  
18 insurance, letters of credit, lines of credit, remarketing  
19 agreements, reimbursement agreements, or purchase or sales  
20 agreements or commitments, or other agreements to provide  
21 security to assure timely payment of bonds or notes.

22 (c) Authorize principal and interest to be payable from 1 or  
23 more of the following:

24 (i) Money described in subsection (3)(a).

25 (ii) Proceeds of bonds or notes.

26 (iii) Earning on proceeds of bonds or notes or other funds  
27 held for payment of bonds or notes.

1           (iv) Proceeds of any other security provided to assure timely  
2 payment of the bonds or notes.

3           (v) Proceeds of federal grants and other money described in  
4 subsection (9).

5           (vi) Any combination of the sources described in  
6 subparagraphs (i) to (v).

7           (d) Authorize or provide for a person designated by the state  
8 transportation commission, but only within limitations which  
9 shall be contained in the authorization resolution of the state  
10 transportation commission, to do 1 or more of the following:

11           (i) Sell and deliver and receive payment for bonds or notes.

12           (ii) Refund bonds or notes by the delivery of new bonds or  
13 notes, whether or not the bonds or notes to be refunded have  
14 matured or are subject to redemption prior to maturity on the  
15 date of delivery of the refunding bonds or notes.

16           (iii) Deliver bonds or notes partly to refund bonds or notes  
17 and partly for any other authorized purposes.

18           (iv) Buy, hold without cancellation, or sell bonds or notes  
19 so issued.

20           (v) Approve interest rates or methods for fixing interest  
21 rates, prices, discounts, maturities, principal amounts,  
22 denominations, dates of issuance, interest payment dates,  
23 optional or mandatory redemption or tender rights and obligations  
24 to be exercised by the state transportation commission or the  
25 holder, the place of delivery and payment, and other matters and  
26 procedures necessary to complete the transactions authorized.

27           (e) In connection with outstanding bonds, notes, or other

1 obligations issued under this act, or in connection with the  
2 issuance or proposed issuance of bonds, notes, or other  
3 indebtedness, the state transportation commission may authorize  
4 by resolution the execution and delivery of agreements providing  
5 for interest rate exchanges or swaps, hedges, or similar  
6 agreements. The obligations of this state under the agreements,  
7 including termination payments, may be made payable from and  
8 secured by a pledge of the same sources of funds as the bonds,  
9 notes, or other obligations in connection with which the  
10 agreements are entered into, or from any other sources of funds  
11 available as a payment source of bonds, notes, or other  
12 obligations issued under this act. In calculating debt service  
13 on bonds, notes, and other obligations, the payments and receipts  
14 under the agreements authorized by this subsection, without  
15 regard to termination payments, and the payment obligations under  
16 the bonds, notes, or other obligations in connection with which  
17 the agreements are entered into, shall be aggregated and treated  
18 as a single obligation.

19 (f) Bonds and notes issued under this act are not subject to  
20 the revised municipal finance act, 2001 PA 34, MCL 141.2101 to  
21 141.2821.

22 (g) The issuance of bonds and notes under this section is  
23 subject to the agency financing reporting act.

24 (12) If additionally secured as provided in ~~this~~ subsection  
25 (11), the bonds or notes, notwithstanding other provisions of  
26 this act, may be made payable or subject to purchase on demand or  
27 prior to maturity at the option of the holder at the time and in

1 the manner as determined by the state transportation commission  
2 or the designated person as provided in the resolution  
3 authorizing the bonds or notes. Any bonds or notes authorized by  
4 this section may bear no interest or interest at a rate or rates  
5 which may be variable but which shall be subject to the  
6 limitations provided in section 18e as provided in the resolution  
7 authorizing the obligations. If bonds or notes are subject to  
8 payment or purchase on demand or prior to maturity at the option  
9 of the holder, and the obligation of the state to make payment or  
10 effect purchases on demand or prior to maturity, at the option of  
11 the holder is limited to the proceeds of 1 or more of the  
12 additional security devices described in this subsection and is  
13 not payable from constitutionally restricted funds deposited in  
14 the comprehensive transportation fund or the state trunk line  
15 fund, for purposes of computing maximum annual principal and  
16 interest requirements under subsections (5) and (6), the  
17 principal and interest on the bonds or notes subject to payment  
18 or purchase on demand or prior redemption at the option of the  
19 holder shall be disregarded and the maximum annual principal and  
20 interest requirements which would arise with respect to the  
21 repayment of the proceeds of the additional security device shall  
22 be substituted ~~therefor~~ **for principal and interest**  
23 **requirements.**

24 (13) **The notes and bonds authorized under this section shall**  
25 **be issued only after the submittal of the resolution of the state**  
26 **transportation commission to the legislature, which, by**  
27 **concurrent resolution adopted by a majority vote of those elected**

1 to and serving in each house, on a record roll call vote shall  
2 approve, alter, amend, or reject the resolution of the state  
3 transportation commission no later than 60 days after the  
4 submittal of the resolution to the legislature. If the  
5 concurrent resolution of the legislature alters or amends the  
6 resolution of the state transportation commission, bonds or notes  
7 under this section shall be issued in accordance with the altered  
8 or amended resolution.