

SENATE BILL No. 424

April 26, 2005, Introduced by Senators GARCIA, KUIPERS, BISHOP and CASSIS 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, local bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts,"

by amending section 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 bonds
3 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 state
7 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 fund
12 or received or to be received from the motor vehicle highway fund
13 or the Michigan transportation fund regardless of when the refunded
14 bonds were issued, by the issuance of new bonds, whether or not the
15 bonds to be refunded have matured or are subject to prior

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

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

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

24 (3) The notes or bonds authorized by this section shall be
25 issued only after authorization by resolution of the state
26 transportation commission ~~—which—~~ **AND THE AUTHORIZATION BY**
27 **CONCURRENT RESOLUTION OF THE LEGISLATURE IN SUBSECTION (13). THE**

1 **STATE TRANSPORTATION COMMISSION** resolution shall contain the
2 following:

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

26 (b) A brief statement describing the projects for which the
27 notes or bonds are to be issued and in the case of notes or bonds

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

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

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

17 (4) If after the issuance of notes or bonds, the state
18 transportation commission **OR THE LEGISLATURE** determines that a
19 project for which the notes or bonds are to be issued should be
20 changed, the state transportation commission, by resolution,
21 adopted after ~~the~~ 30 days' notice of intention to adopt the
22 resolution has been given to the appropriations committees of the
23 senate and the house of representatives, **OR AFTER THE LEGISLATURE**
24 **HAS AUTHORIZED BOND ISSUANCE IN A CONCURRENT RESOLUTION UNDER**
25 **SUBSECTION (13)** shall amend the **STATE TRANSPORTATION COMMISSION**
26 resolution authorizing the bonds or notes to change the description
27 of the project or projects or to substitute a different project or

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

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

22 (6) The total amount of bonds and notes issued pursuant to
23 this section for transportation purposes described in the second
24 paragraph of section 9 of article IX of the state constitution of
25 1963 shall not exceed an amount as will be serviced as to the
26 maximum principal and interest requirements by a sum equal to 50%
27 of the total of the amount of money received from taxes, the use of

1 which is restricted by section 9 of article IX of the state
2 constitution of 1963 and which is deposited in the state treasury
3 to the credit of the state trunk line fund during the state fiscal
4 year immediately preceding the issuance of the bonds or notes.

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

21 (8) In computing the maximum annual principal and interest
22 requirements under subsection (6), the total outstanding maximum
23 annual contributions required to be made by the state highway
24 commission and the state transportation commission pursuant to
25 contracts entered into under the authorization of section 18d,
26 which contributions are pledged to the payment of bonds issued
27 under section 18d, shall be included in the amount.

1 (9) ~~The~~ **SUBJECT TO SUBSECTION (13), THE** state transportation
2 commission may borrow money and issue notes or bonds in
3 anticipation of the receipt of grants from the United States of
4 America or any agency or instrumentality ~~thereof~~ **OF THE UNITED**
5 **STATES** and may pledge for the payment of the principal, interest,
6 and redemption premiums on ~~such~~ **THE** notes or bonds 1 or more of
7 the following:

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

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

19 (c) If deemed advisable by the state transportation
20 commission, money received or to be received by the state from the
21 sale of the bonds or notes described in this section to be issued
22 after the issuance of the notes or bonds described in this
23 subsection and any investment earnings or gain ~~thereon~~ **ON THE**
24 **NOTES OR BONDS.**

25 (10) Bonds or notes may be issued under this section as
26 separate issues or series with different dates of issuance, but the
27 aggregate of the bonds or notes shall be subject to the limitations

1 ~~set forth in~~ OF this section.

2 (11) ~~The~~ AFTER THE LEGISLATURE HAS APPROVED THE ISSUANCE OF
3 BONDS OR NOTES UNDER SUBSECTION (13), THE state transportation
4 commission in determining to issue bonds or notes may do 1 or more
5 of the following:

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

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

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

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

21 (ii) Proceeds of bonds or notes.

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

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

26 (v) Proceeds of federal grants and other money described in
27 subsection (9).

1 (vi) Any combination of the sources described in subparagraphs
2 (i) to (v).

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

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

8 (ii) Refund bonds or notes by the delivery of new bonds or
9 notes, whether or not the bonds or notes to be refunded have
10 matured or are subject to redemption prior to maturity on the date
11 of delivery of the refunding bonds or notes.

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

14 (iv) Buy, hold without cancellation, or sell bonds or notes so
15 issued.

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

23 (e) In connection with outstanding bonds, notes, or other
24 obligations issued under this act, or in connection with the
25 issuance or proposed issuance of bonds, notes, or other
26 indebtedness, the state transportation commission may authorize by
27 resolution the execution and delivery of agreements providing for

1 interest rate exchanges or swaps, hedges, or similar agreements.

2 The obligations of this state under the agreements, including
3 termination payments, may be made payable from and secured by a
4 pledge of the same sources of funds as the bonds, notes, or other
5 obligations in connection with which the agreements are entered
6 into, or from any other sources of funds available as a payment
7 source of bonds, notes, or other obligations issued under this act.
8 In calculating debt service on bonds, notes, and other obligations,
9 the payments and receipts under the agreements authorized by this
10 subsection, without regard to termination payments, and the payment
11 obligations under the bonds, notes, or other obligations in
12 connection with which the agreements are entered into, shall be
13 aggregated and treated as a single obligation.

14 (f) Bonds and notes issued under this act are not subject to
15 the revised municipal finance act, 2001 PA 34, MCL 141.2101 to
16 141.2821.

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

19 (12) If additionally secured as provided in ~~this~~ subsection
20 (11), the bonds or notes, notwithstanding other provisions of this
21 act, may be made payable or subject to purchase on demand or prior
22 to maturity at the option of the holder at the time and in the
23 manner as determined by the state transportation commission or the
24 designated person as provided in the resolution authorizing the
25 bonds or notes. Any bonds or notes authorized by this section may
26 bear no interest or interest at a rate or rates which may be
27 variable but which shall be subject to the limitations provided in

1 section 18e as provided in the resolution authorizing the
2 obligations. If bonds or notes are subject to payment or purchase
3 on demand or prior to maturity at the option of the holder, and the
4 obligation of the state to make payment or effect purchases on
5 demand or prior to maturity, at the option of the holder is limited
6 to the proceeds of 1 or more of the additional security devices
7 described in this subsection and is not payable from
8 constitutionally restricted funds deposited in the comprehensive
9 transportation fund or the state trunk line fund, for purposes of
10 computing maximum annual principal and interest requirements under
11 subsections (5) and (6), the principal and interest on the bonds or
12 notes subject to payment or purchase on demand or prior redemption
13 at the option of the holder shall be disregarded and the maximum
14 annual principal and interest requirements which would arise with
15 respect to the repayment of the proceeds of the additional security
16 device shall be substituted ~~therefor~~ **FOR PRINCIPAL AND INTEREST**
17 **REQUIREMENTS.**

18 (13) THE NOTES AND BONDS AUTHORIZED UNDER THIS SECTION SHALL
19 BE ISSUED ONLY AFTER THE SUBMITTAL OF THE RESOLUTION OF THE STATE
20 TRANSPORTATION COMMISSION TO THE LEGISLATURE, WHICH, BY CONCURRENT
21 RESOLUTION ADOPTED BY A MAJORITY VOTE OF THOSE ELECTED TO AND
22 SERVING IN EACH HOUSE, ON A RECORD ROLL CALL VOTE SHALL APPROVE,
23 ALTER, AMEND, OR REJECT THE RESOLUTION OF THE STATE TRANSPORTATION
24 COMMISSION NO LATER THAN 60 DAYS AFTER THE SUBMITTAL OF THE
25 RESOLUTION TO THE LEGISLATURE. IF THE CONCURRENT RESOLUTION OF THE
26 LEGISLATURE ALTERS OR AMENDS THE RESOLUTION OF THE STATE
27 TRANSPORTATION COMMISSION, BONDS OR NOTES UNDER THIS SECTION SHALL

1 BE ISSUED IN ACCORDANCE WITH THE ALTERED OR AMENDED RESOLUTION.