

HOUSE BILL No. 6752

November 25, 2008, Introduced by Rep. Byrnes 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 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 10 and 10c (MCL 247.660 and 247.660c), section 10 as amended by 2007 PA 210 and section 10c as amended by 2005 PA 45.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10. (1) A fund to be known as the Michigan transportation
2 fund is established and shall be set up and maintained in the state
3 treasury as a separate fund. Money received and collected under the
4 motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170, except a
5 license fee provided in that act, and a tax, fee, license, and
6 other money received and collected under sections 801 to 810 of the
7 Michigan vehicle code, 1949 PA 300, MCL 257.801 to 257.810, except
8 a truck safety fund fee provided in section 801(1)(k) of the
9 Michigan vehicle code, 1949 PA 300, MCL 257.801, and money received
10 under the motor carrier act, 1933 PA 254, MCL 475.1 to 479.43,
11 shall be deposited in the state treasury to the credit of the
12 Michigan transportation fund. In addition, income or profit derived
13 from the investment of money in the Michigan transportation fund
14 shall be deposited in the Michigan transportation fund. Except as
15 provided in this act, no other money, whether appropriated from the

1 general fund of this state or any other source, shall be deposited
2 in the Michigan transportation fund. Except as otherwise provided
3 in this section, the legislature shall appropriate funds for the
4 necessary expenses incurred in the administration and enforcement
5 of the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170,
6 the motor carrier act, 1933 PA 254, MCL 475.1 to 479.43, and
7 sections 801 to 810 of the Michigan vehicle code, 1949 PA 300, MCL
8 257.801 to 257.810. Funds appropriated for necessary expenses shall
9 be based upon established cost allocation methodology that reflects
10 actual costs. Appropriations for the necessary expenses incurred by
11 the department of state in administration and enforcement of
12 sections 801 to 810 of the Michigan vehicle code, 1949 PA 300, MCL
13 257.801 to 257.810, shall be made from the Michigan transportation
14 fund and from funds in the transportation administration collection
15 fund created in section 810b of the Michigan vehicle code, 1949 PA
16 300, MCL 257.810b. Appropriations from the Michigan transportation
17 fund for the necessary expenses incurred by department of state in
18 administration and enforcement of sections 801 to 810 of the
19 Michigan vehicle code, 1949 PA 300, MCL 257.801 to 257.810, shall
20 not exceed \$20,000,000.00 per state fiscal year except for the
21 fiscal year ending September 30, 2006. For the fiscal year ending
22 September 30, 2006, the legislature may appropriate funds in excess
23 of \$20,000,000.00 from the Michigan transportation fund for all
24 incremental additional expenses incurred by the department of state
25 in enforcing sections 801 to 810 of the Michigan vehicle code, 1949
26 PA 300, MCL 257.801 to 257.810, that arise because of the
27 replacement of standard design registration license plates as

provided in section 224 of the Michigan vehicle code, 1949 PA 300, MCL 257.224. All money in the Michigan transportation fund is apportioned and appropriated in the following manner:

(a) Not more than \$3,000,000.00 as may be annually appropriated each fiscal year to the state trunk line fund for subsequent deposit in the rail grade crossing account.

(b) Not less than \$3,000,000.00 each year to the local bridge fund established in subsection (5) for the purpose of payment of the principal, interest, and redemption premium on any notes or bonds issued by the state transportation commission under former section 11b or subsection (10).

~~_____ (c) Revenue from 3 cents of the tax levied under section 8(1)(a) of the motor fuel tax act, 2000 PA 403, MCL 207.1008, to the state trunk line fund, county road commissions, and cities and villages in the percentages provided in subdivision (i).~~

(C) ~~(d)~~ Until September 30, 2004, all of the revenue from 1 cent of the tax levied under section 8(1)(a) of the motor fuel tax act, 2000 PA 403, MCL 207.1008, to the state trunk line fund for repair of state bridges under section 11. Beginning October 1, 2004 and continuing through September 30, 2005, 3/4 of the revenue from 1 cent of the tax levied under section 8(1)(a) of the motor fuel tax act, 2000 PA 403, MCL 207.1008, shall be appropriated to the state trunk line fund for the repair of state bridges under section 11, and 1/4 of the revenue from 1 cent of the tax levied under section 8(1)(a) of the motor fuel tax act, 2000 PA 403, MCL 207.1008, shall be appropriated to the local bridge fund created in subsection (5) for distribution only to cities, villages, and

1 county road commissions. Beginning October 1, 2005, 1/2 of the
2 revenue from 1 cent of the tax levied under section 8(1)(a) of the
3 motor fuel tax act, 2000 PA 403, MCL 207.1008, shall be
4 appropriated to the state trunk line fund for the repair of state
5 bridges under section 11, and 1/2 of the revenue from 1 cent of the
6 tax levied under section 8(1)(a) of the motor fuel tax act, 2000 PA
7 403, MCL 207.1008, shall be appropriated to the local bridge fund
8 created in subsection (5) for distribution only to cities,
9 villages, and county road commissions.

10 (D) ~~(e)~~—\$43,000,000.00 to the state trunk line fund for debt
11 service costs on state of Michigan projects.

12 (E) ~~(f)~~—Except as provided in subsection (4), 10% to the
13 comprehensive transportation fund for the purposes described in
14 section 10e.

15 (F) ~~(g)~~—\$5,000,000.00 to the local bridge fund established in
16 subsection (5) for distribution only to the local bridge advisory
17 board, the regional bridge councils, cities, villages, and county
18 road commissions.

19 (G) ~~(h)~~—\$36,775,000.00 to the state trunk line fund for
20 subsequent deposit in the transportation economic development fund,
21 and, as of September 30, 1997, with first priority for allocation
22 to debt service on bonds issued to fund transportation economic
23 development fund projects. In addition, beginning October 1, 1997,
24 \$3,500,000.00 is appropriated from the Michigan transportation fund
25 to the state trunk line fund for subsequent deposit in the
26 transportation economic development fund to be used for economic
27 development road projects in any of the targeted industries

1 described in section 9(1)(a) of 1987 PA 231, MCL 247.909.

2 (H) ~~(i)~~—Not less than \$33,000,000.00 as may be annually
3 appropriated each fiscal year to the local program fund created in
4 section 11e.

5 (I) ~~(j)~~—The balance of the Michigan transportation fund as
6 follows, after deduction of the amounts appropriated in
7 subdivisions (a) through ~~(i)~~—(H) and section 11b:

8 (i) 39.1% to the state trunk line fund for the purposes
9 described in section 11.

10 (ii) 39.1% to the county road commissions of the state.

11 (iii) 21.8% to the cities and villages of the state.

12 (2) The money appropriated pursuant to this section shall be
13 used for the purposes as provided in this act and any other
14 applicable act. Subject to the requirements of section 9b, the
15 department shall develop programs in conjunction with the Michigan
16 state chamber of commerce and the Michigan minority business
17 development council to assist small businesses, including those
18 located in enterprise zones and those located in empowerment zones
19 as determined under federal law, as defined by law in becoming
20 qualified to bid.

21 (3) Thirty-one and one-half percent of the funds appropriated
22 to this state from the federal government pursuant to 23 USC 157,
23 commonly known as minimum guarantee funds, shall be allocated to
24 the transportation economic development fund, if such an allocation
25 is consistent with federal law. These funds shall be distributed
26 16-1/2% for development projects for rural counties as defined by
27 law and 15% for capacity improvement or advanced traffic management

1 systems in urban counties as defined by law. Federal funds
2 allocated for distribution under this section shall be eligible for
3 obligation and use by all recipients as defined by the
4 transportation equity act for the 21st century, Public Law 105-178.

5 (4) For the fiscal year beginning October 1, 2003 only, the
6 apportionment of 10% of Michigan transportation fund money to the
7 comprehensive transportation fund as provided in subsection (1)(f)
8 shall be reduced by \$10,000,000.00 and the \$10,000,000.00 shall be
9 transferred to the state trunk line fund for capacity improvements
10 to state trunk line highways.

11 (5) A fund to be known as the local bridge fund is established
12 and is set up and maintained in the state treasury as a separate
13 fund. The money appropriated to the local bridge fund and the
14 interest accruing to that fund shall be expended for the local
15 bridge program. The purpose of the fund is to provide financial
16 assistance to highway authorities for the preservation,
17 improvement, or reconstruction of existing bridges or for the
18 construction of bridges to replace existing bridges in whole or
19 part. The money in the local bridge fund is not subject to section
20 12(15) or 13(5). The local bridge advisory board is created and
21 shall consist of 6 voting members appointed by the state
22 transportation commission and 2 nonvoting members appointed by the
23 state transportation department. The board shall include 3 members
24 from the county road association of Michigan, 1 member who
25 represents counties with populations 65,000 or greater, 1 member
26 who represents counties with populations greater than 30,000 and
27 less than 65,000, and 1 member who represents counties with

1 populations of 30,000 or less. Three members shall be appointed
2 from the Michigan municipal league, 1 member who represents cities
3 with a population 75,000 or greater, 1 member who represents cities
4 with a population less than 75,000, and 1 member who represents
5 villages. Each organization with voting rights shall submit a list
6 of nominees in each population category to the state transportation
7 commission. The state transportation commission shall make the
8 appointments from the lists submitted under this subsection. Names
9 shall be submitted within 45 days after October 1, 2004. The state
10 transportation commission shall make the appointments by January
11 30, 2005. Voting members shall be appointed for 2 years. The
12 chairperson of the board shall be selected from among the voting
13 members of the board. In addition to the 2 nonvoting members, the
14 department shall provide qualified administrative staff and
15 qualified technical assistance to the board.

16 (6) Beginning October 1, 2005, no less than 5% and no more
17 than 15% of the funds received in the local bridge fund may be used
18 for critical repair of large bridges and emergencies as determined
19 by the local bridge advisory board. Beginning October 1, 2005,
20 funds remaining after the funds allocated for critical large bridge
21 repair and emergencies are deducted shall be distributed by the
22 board to the regional bridge councils created under this section.
23 One regional council shall be formed for each department of
24 transportation region as those regions exist on October 1, 2004.
25 The regional councils shall consist of 2 members of the county road
26 association of Michigan from counties in the region, 2 members of
27 the Michigan municipal league from cities and villages in the

1 region, and 1 member of the state transportation department in each
2 region. The members of the state transportation department shall be
3 nonvoting members who shall provide qualified administrative staff
4 and qualified technical assistance to the regional councils.

5 (7) Beginning October 1, 2005, funds in the local bridge fund
6 after deduction of the amounts set aside for critical repair of
7 large bridges and emergency repairs shall be distributed among the
8 regional bridge councils according to all of the following ratios,
9 which shall be assigned a weight expressed as a percentage as
10 determined by the board, with each ratio receiving no greater than
11 a 50% weight and no less than a 25% weight:

12 (a) A ratio with a numerator that is the total number of local
13 bridges in the region and a denominator that is the total number of
14 local bridges in this state.

15 (b) A ratio with a numerator that is the total local bridge
16 deck area in the region and a denominator that is the total local
17 bridge deck area in this state.

18 (c) A ratio with a numerator that is the total amount of
19 structurally deficient local bridge deck area in the region and a
20 denominator that is the total amount of structurally deficient
21 local bridge deck area in this state.

22 (8) Beginning October 1, 2005, the regional bridge councils
23 shall allocate the funds received from the board for the
24 preservation, improvement, and reconstruction of existing bridges
25 or for the construction of bridges to replace existing bridges in
26 whole or in part in each region.

27 (9) Beginning January 1, 2007 and each January after 2007, the

1 department shall submit a report to the chair and the minority
2 vice-chair of the appropriations committees of the senate and the
3 house of representatives, and to the standing committees on
4 transportation of the senate and the house of representatives, on
5 all of the following activities for the previous state fiscal year:

6 (a) A listing of how much money was dedicated for emergency
7 and large bridge repair.

8 (b) A listing of what emergency and large bridge repair
9 projects were funded.

10 (c) The actual weights used in the calculation required under
11 subsection (7).

12 (d) A listing of the total money distributed to each region.

13 (e) A listing of what specific projects were funded pursuant
14 to subsection (8).

15 (10) The state transportation commission shall borrow money
16 and issue notes or bonds in an amount of not less than
17 \$30,000,000.00 to supplement the funding provided for the local
18 bridge program under subsection (6). The bonds or notes issued
19 pursuant to this subsection may be issued by the commission for any
20 purpose for which other local bridge funds may be used under this
21 section. The bonds or notes authorized by this subsection shall be
22 issued by resolution of the state transportation commission
23 consistent with the requirements of section 18b.

24 (11) The state transportation department shall promulgate
25 rules pursuant to the administrative procedures act of 1969, 1969
26 PA 306, MCL 24.201 to 24.328, governing the administration of the
27 local bridge program. The rules shall set forth the eligibility

1 criteria for financial assistance under the program and other
2 matters related to the program that the department considers
3 necessary and desirable. The department shall take into
4 consideration the availability of federal aid and other financial
5 resources of the highway authority responsible for the bridge, the
6 importance of the bridge to the highway, road, or street network,
7 and the condition of the existing bridge.

8 (12) Beginning October 1, 2004, the revenue appropriated to
9 the local bridge fund pursuant to subsection (1)(d) shall be
10 distributed only to the local bridge advisory board, the regional
11 bridge councils, cities, villages, and county road commissions.

12 (13) Beginning October 1, 2008, the regional bridge councils
13 shall determine what bridge projects are selected for funding from
14 the local bridge fund created in subsection (5) and shall make a
15 list of selected projects available to interested parties in the
16 region. A determination that a bridge project is selected for
17 funding in a given fiscal year is not approval to disburse the
18 funds.

19 (14) Beginning October 1, 2008, a county road commission,
20 city, or village may implement a bridge project if the bridge
21 project has been selected for funding and is included in the
22 appropriate regional bridge council's current multiyear bridge plan
23 for the local bridge program but the regional bridge council has
24 not allocated funds to the bridge project for the fiscal year that
25 the bridge project is on the current multiyear bridge plan. A
26 county road commission, city, or village may borrow funds to
27 implement a project that has been selected for funding and is

1 included in the appropriate regional bridge council's current
2 multiyear bridge plan but has not been allocated funds by the
3 regional bridge council. Based on available local bridge funds,
4 when a bridge project that was implemented with borrowed funds is
5 allocated funding in a subsequent fiscal year, the funding shall
6 only be used to repay the amount approved by the multiyear bridge
7 plan when the funds were borrowed. To be eligible for repayment of
8 the amount borrowed, a bridge project that has been implemented
9 with borrowed funds shall be administered through the department's
10 local bridge program.

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

12 (a) "Urban or rural area" means a contiguous developed area,
13 including the immediate surrounding area, where transportation
14 services should reasonably be provided presently or in the future;
15 the area within the jurisdiction of an eligible authority; or for
16 the purpose of receiving funds for public transportation, a
17 contiguous developed area having a population of less than 50,000
18 population that has an urban public transportation program approved
19 by the state transportation department and for which the state
20 transportation commission determines that public transportation
21 services should reasonably be provided presently or in the future.

22 (b) "Eligible authority" means an authority organized pursuant
23 to the metropolitan transportation authorities act of 1967, 1967 PA
24 204, MCL 124.401 to 124.426.

25 (c) "Eligible governmental agency" means a county, city, or
26 village or an authority created pursuant to 1963 PA 55, MCL 124.351
27 to 124.359; the urban cooperation act of 1967, 1967 (Ex Sess) PA 7,

1 MCL 124.501 to 124.512; 1967 (Ex Sess) PA 8, MCL ~~124.1~~**124.531** to
2 ~~124.13~~**124.536**; 1951 PA 35, MCL 124.1 to 124.13; the public
3 transportation authority act, 1986 PA 196, MCL 124.451 to 124.479;
4 or the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to
5 141.140.

6 (d) "Transit vehicle" means a bus, rapid transit vehicle,
7 railroad car, water vehicle, **STREET RAILWAY CAR**, taxicab, or other
8 type of public transportation vehicle or individual unit, whether
9 operated singly or in a group which provides public transportation.

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

13 (f) "Demand actuated vehicle" means a bus or smaller transit
14 vehicle operated for providing group rides to members of the
15 general public paying fares individually, and on demand rather than
16 in regularly scheduled route service.

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

19 (h) "Public transportation", "comprehensive transportation",
20 "public transportation service", "comprehensive transportation
21 service", "public transportation purpose", or "comprehensive
22 transportation purpose" means the movement of people and goods by
23 publicly or privately owned water vehicle, bus, railroad car,
24 aircraft, rapid transit vehicle, taxicab, or other conveyance which
25 provides general or special service to the public, but not
26 including charter or sightseeing service or transportation which is
27 exclusively for school purposes. Public transportation, public

1 transportation services, or public transportation purposes; and
2 comprehensive transportation, comprehensive transportation
3 services, or comprehensive transportation purposes as defined in
4 this subdivision are declared by law to be transportation purposes
5 within the meaning of section 9 of article IX of the state
6 constitution of 1963.

7 (i) "State transportation commission" means the state
8 transportation commission established in section 28 of article V of
9 the state constitution of 1963.

10 (j) "Governmental unit" means the state transportation
11 department, the state transportation commission, a county road
12 commission, a city, or a village.

13 (k) "Department" or "department of transportation" means the
14 state transportation department, which may be referred to
15 administratively as the department of transportation.

16 (l) "Preservation" means an activity undertaken to preserve the
17 integrity of the existing roadway system. Preservation does not
18 include new construction of highways, roads, streets, or bridges, a
19 project that increases the capacity of a highway facility to
20 accommodate that part of traffic having neither an origin nor
21 destination within the local area, widening of a lane width or
22 more, or adding turn lanes of more than 1/2 mile in length.
23 Preservation includes, but is not limited to, 1 or more of the
24 following:

25 (i) Maintenance.

26 (ii) Capital preventive treatments.

27 (iii) Safety projects.

1 (iv) Reconstruction.

2 (v) Resurfacing.

3 (vi) Restoration.

4 (vii) Rehabilitation.

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

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

7 (x) Modernizing intersections.

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

9 (xii) Installing traffic signs in new locations, installing
10 signal devices in new locations, and replacing existing signal
11 devices.

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

22 (n) "Routine maintenance" means actions performed on a regular
23 or controllable basis or in response to uncontrollable events upon
24 a highway, road, street, or bridge. Routine maintenance includes,
25 but is not limited to, 1 or more of the following:

26 (i) Snow and ice removal.

27 (ii) Pothole patching.

- (iii) Unplugging drain facilities.
- (iv) Replacing damaged sign and pavement markings.
- (v) Replacing damaged guardrails.
- (vi) Repairing storm damage.
- (vii) Repair or operation of traffic signs and signal systems.
- (viii) Emergency environmental cleanup.
- (ix) Emergency repairs.
- (x) Emergency management of road closures that result from uncontrollable events.

- (xi) Cleaning streets and associated drainage.
- (xii) Mowing roadside.
- (xiii) Control of roadside brush and vegetation.
- (xiv) Cleaning roadside.
- (xv) Repairing lighting.
- (xvi) Grading.

(o) "Preventive maintenance" means a planned strategy of cost-effective treatments to an existing roadway system and its appurtenances that preserve assets by retarding deterioration and maintaining functional condition without significantly increasing structural capacity. Preventive maintenance includes, but is not limited to, 1 or more of the following:

- (i) Pavement crack sealing.
- (ii) Micro surfacing.
- (iii) Chip sealing.
- (iv) Concrete joint resealing.
- (v) Concrete joint repair.
- (vi) Filling shallow pavement cracks.

- 1 (vii) Patching concrete.
- 2 (viii) Shoulder resurfacing.
- 3 (ix) Concrete diamond grinding.
- 4 (x) Dowel bar retrofit.
- 5 (xi) Bituminous overlays of 1-1/2 inches or less in thickness.
- 6 (xii) Restoration of drainage.
- 7 (xiii) Bridge crack sealing.
- 8 (xiv) Bridge joint repair.
- 9 (xv) Bridge seismic retrofit.
- 10 (xvi) Bridge scour countermeasures.
- 11 (xvii) Bridge painting.
- 12 (xviii) Pollution prevention.
- 13 (xix) New treatments as they may be developed.

14 (p) "County road commission" means the board of county road
15 commissioners elected or appointed pursuant to section 6 of chapter
16 IV of 1909 PA 283, MCL 224.6, or, in the case of a charter county
17 with a population of 2,000,000 or more with an elected county
18 executive that does not have a board of county road commissioners,
19 the county executive for ministerial functions and the county
20 commission provided for in section 14(1)(d) of 1966 PA 293, MCL
21 45.514, for legislative functions.

22 (q) "Capital preventive treatments" means any preventive
23 maintenance category project on state trunk line highways that
24 qualifies under the department's capital preventive maintenance
25 program.