

SENATE BILL No. 460

April 23, 2009, Introduced by Senators CHERRY and BRATER 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 section 10e (MCL 247.660e), as amended by 2008 PA 487.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10e. (1) The comprehensive transportation fund is
2 appropriated for each fiscal year in the following order of
3 priority.

4 (2) The first priority is to pay, but only from money
5 restricted as to use by section 9 of article IX of the state
6 constitution of 1963, the principal and interest on bonds or notes
7 issued under section 18b for comprehensive transportation purposes
8 as defined by law. A sufficient portion of the comprehensive
9 transportation fund is irrevocably appropriated to pay, when due,
10 the principal and interest on those bonds and notes.

11 (3) After making or setting aside payments required by
12 subsection (2), the second priority of the comprehensive
13 transportation fund is the payment of the department's cost in
14 administering the comprehensive transportation fund. The amount to
15 be expended pursuant to this subsection shall not exceed the costs
16 appropriated for the administration of the fund in the fiscal year
17 ending September 30, 1987, as adjusted annually on October 1, by

1 the change for the preceding 12 months in the Detroit consumer
2 price index for urban wage earners and shall be appropriated
3 annually by the legislature.

4 (4) After making or setting aside payments required by
5 subsections (2) and (3), the balance of the comprehensive
6 transportation fund shall be expended each fiscal year as
7 appropriated annually by the legislature pursuant to the state
8 transportation program approved by the commission as follows:

9 (a) The third priority shall be the payment of operating
10 grants to eligible authorities and eligible governmental agencies
11 according to the following formulations and subject to the
12 following requirements:

13 (i) For the fiscal year ending September 30, 1998, and for each
14 fiscal year thereafter, each eligible authority and eligible
15 governmental agency which provides public transportation services
16 in urbanized areas under 49 USC 5307, with a Michigan population
17 greater than 100,000 shall receive a grant of up to 50% of their
18 eligible operating expenses as defined by the state transportation
19 department.

20 (ii) For the fiscal year ending September 30, 1998, and each
21 fiscal year thereafter, each eligible authority and eligible
22 governmental agency which provides public transportation services
23 in urbanized areas with a Michigan population less than or equal to
24 100,000 and nonurbanized areas under 49 USC 5311, shall receive a
25 grant of up to 60% of their eligible operating expenses as defined
26 by the state transportation department. For purposes of receiving a
27 grant under this subparagraph in nonurbanized areas, eligible costs

1 of services provided by water vehicle shall be reimbursed at not
2 less than 50% of the portion of the costs not eligible for
3 reimbursement by the federal government.

4 (iii) Funds shall not be distributed to an eligible authority or
5 eligible governmental agency under this act unless the eligible
6 authority or eligible governmental agency provides or agrees to
7 provide preferential fares for public transportation services to
8 persons 65 years of age or over or persons with disabilities riding
9 in off peak periods of service. As used in this section, "person
10 with disabilities" means an individual with a disability as that
11 term is defined in 61 FRP 56424 (November 1, 1996) and 49 CFR part
12 27. The preferential fares shall not be higher than 50% of the
13 regular 1-way single fare.

14 (iv) Eligible authorities and eligible governmental agencies
15 shall not engage in charter service using vehicles, facilities, or
16 equipment funded under this act except on an incidental basis as
17 defined by 49 CFR part 604.

18 (v) Notwithstanding any other provision of this subsection,
19 for the fiscal year ending September 30, 1998, each eligible
20 authority and eligible governmental agency shall receive a
21 distribution from the comprehensive transportation fund not less
22 than the distribution received for eligible operating expenses for
23 the fiscal year ending September 30, 1997. Beginning with the
24 fiscal year ending September 30, 1998 and each fiscal year
25 thereafter, each eligible authority and eligible governmental
26 agency shall receive a distribution from the comprehensive
27 transportation fund for eligible operating expenses not less than

1 the distribution received for the fiscal year ending September 30,
2 1997. As it relates to this subsection the ratio between
3 comprehensive transportation funds and local funds in the fiscal
4 year ending September 30, 1989 shall be maintained for all fiscal
5 years by the eligible authority and eligible governmental agency.
6 Reductions in this ratio shall require a proportionate reduction in
7 the comprehensive transportation funds provided for any fiscal
8 year.

9 (vi) Each eligible authority and eligible governmental agency
10 receiving comprehensive transportation funds shall prepare and
11 submit to the department a quarterly report of the progress made in
12 carrying out its local transportation program within 40 days after
13 the end of each fiscal year quarter. The progress report shall be
14 made on forms authorized by the United States department of
15 transportation under the provisions of the surface transportation
16 and uniform relocation assistance act of 1987, Public Law 100-17,
17 101 Stat. 132.

18 (vii) The department shall periodically adjust or redistribute
19 comprehensive transportation funds previously distributed under
20 this subdivision.

21 (b) For the fiscal year ending September 30, 1997, and each
22 fiscal year thereafter, not less than 10% shall be distributed by
23 the department for intercity passenger and intercity freight
24 transportation purposes.

25 (c) For the fiscal year ending September 30, 1997, and each
26 fiscal year thereafter, funds remaining in the fund after payment
27 of the amounts required by subdivisions (a) and (b) shall be

1 distributed by the department for public transportation purposes.
2 For the fiscal year ending September 30, 1998, and each fiscal year
3 thereafter, funds shall be made available to match all projects for
4 eligible authorities and eligible governmental agencies that are
5 approved for federal funding as provided by federal law and for
6 which an approved transportation improvement program (TIP) and
7 state transportation improvement plan (STIP) exist. Funds
8 distributed under this subdivision shall be expended pursuant to
9 specific line item appropriation for, but are not limited to, the
10 following public transportation purposes:

11 (i) The specialized services assistance program. The
12 specialized services assistance program shall be funded with not
13 less than \$3,600,100.00 from funds distributed under this
14 subdivision. Funds shall be distributed according to guidelines
15 developed by the department based upon the following
16 considerations:

17 (A) Proposals for coordinated specialized services assistance
18 funding shall be developed jointly between existing eligible
19 authorities or eligible governmental agencies that provide public
20 transportation services and the area agencies on aging or any other
21 organization representing specialized services interests, as
22 defined in this subdivision. Plans shall be reviewed and approved
23 by the bureau of urban and public transportation of the department.
24 Upon approval, the department shall release the funds to the
25 eligible authority or eligible governmental agency which shall then
26 allocate the funds to the area agency on aging or any other
27 organization representing specialized services interests, as

1 defined in this subdivision for the purchase of services as
2 approved in the plan by the department.

3 (B) If an eligible authority or eligible governmental agency
4 does not exist to provide public transportation service in a
5 county, coordinated proposals for specialized services assistance
6 funding may be submitted by the area agency on aging or any other
7 organization representing specialized services interests, as
8 defined in this subdivision. The proposals shall be reviewed and
9 approved by the bureau of urban and public transportation of the
10 department. Upon approval, the department shall release the funds
11 to the area agency on aging or any other organization representing
12 specialized services interests, as defined in this subdivision for
13 the purchase of services as approved in the plan by the department.

14 (C) For the purposes of this program, "specialized services"
15 means public transportation primarily designed for persons with
16 disabilities or persons who are 65 years of age or older.

17 (ii) Local bus capital. For the fiscal year ending September
18 30, 1998 and each fiscal year thereafter, not less than
19 \$8,000,000.00 will be distributed for either matching federal funds
20 for local bus capital or 100% capital projects for eligible
21 authorities and eligible governmental agencies that are not
22 eligible to receive federal capital formula funds under section
23 5307 of the federal intermodal surface transportation efficiency
24 act, Public Law 102-240, or any successor act.

25 (iii) Local bus new services.

26 (iv) Not less than \$2,000,000.00 in each fiscal year for the
27 credit program established under section 10/.

1 (v) Public transportation development.

2 (vi) Other public transportation programs approved by the
3 commission.

4 (d) The unappropriated and unencumbered balance of the
5 comprehensive transportation fund lapses at the end of each fiscal
6 year and reverts to the comprehensive transportation fund for
7 appropriation in the following fiscal year.

8 (5) Eligible authorities and eligible governmental agencies
9 shall receive capital grants each fiscal year by the annual process
10 described in this section. Amounts received by an eligible
11 authority or eligible governmental agency pursuant to this
12 subsection shall be expended by that authority or agency solely for
13 capital projects which have been approved by the state
14 transportation commission. Any funds approved by distribution to an
15 eligible authority or eligible governmental agency pursuant to this
16 section which have not been encumbered by that agency or authority
17 for an approved capital project by the end of the following fiscal
18 year in which the funds were approved shall not be expended by the
19 authority or agency and be available for distribution from the
20 comprehensive transportation fund for the purposes described in
21 this section.

22 (6) The department, in carrying out the policy of the state
23 transportation commission, shall annually prepare and distribute by
24 December 1, instructions to eligible governmental agencies,
25 eligible authorities, and intercity carriers to enable the
26 preparation of a local transportation program. Eligible
27 governmental agencies, eligible authorities, and intercity carriers

1 shall give public notice of their intent to apply for money in the
2 comprehensive transportation fund to the residents of the counties,
3 townships, villages, and cities affected by the local
4 transportation program and shall make their application available
5 for a period of 30 days. All comments received by the eligible
6 governmental agency, eligible authority, or intercity carrier shall
7 be transmitted to the department.

8 (7) On or before March 1 of each year, each intercity carrier,
9 eligible authority, and eligible governmental agency shall submit
10 to the department its local transportation program for the next
11 succeeding fiscal year. The format for each local transportation
12 program shall be as prescribed by the federal transportation
13 improvement program insofar as practical and shall include project
14 descriptions, funding sources, and justification for each line
15 item, and summary budgets based on distributions anticipated under
16 subsection (4). The program shall contain at a minimum the
17 contemplated routes, hours of service, estimated transit vehicle
18 miles, costs of public transportation services, and projected
19 capital improvements or projects as exclusively determined by the
20 eligible authority or eligible governmental agency. The costs of
21 service and capital improvements or projects shall be in sufficient
22 detail to permit the state transportation department to evaluate
23 and approve the annual public transportation program. Determination
24 of individual projects to be included in the local transportation
25 programs other than those provided in this subsection shall be made
26 by the governing body of the eligible authority or eligible
27 governmental agency.

1 (8) On or before March 1 of each year, the department shall
2 prepare and file for public inspection and review the department
3 transportation program. The department transportation program shall
4 be prepared on similar format to the local transportation programs,
5 and shall include a summary description of projects, with funding
6 sources and project justifications for each line item for the
7 fiscal year immediately succeeding the fiscal year in which the
8 program is submitted. In addition, the department transportation
9 program shall include summary, nondetailed budget and project
10 descriptions and justifications excluding projects contained in a
11 local transportation program.

12 (9) On or before April 1 of each year, the department shall
13 prepare and file with the commission the proposed state
14 transportation program for the next succeeding fiscal year. The
15 proposed state transportation program shall contain the local
16 transportation programs of each intercity carrier, eligible
17 authority and eligible governmental agency, the department
18 transportation program, and the programs for the expenditure of the
19 state trunk line fund as they may have been supplemented, amended,
20 or modified since their original filing. The state transportation
21 program shall include the estimated amount of money in the funds
22 described in this subsection by revenue source, project
23 justifications, project descriptions funding sources, and budget
24 summaries.

25 (10) On or before May 1 of each year, the state transportation
26 commission shall act on the state transportation program for the
27 fiscal year commencing on the following October 1. In considering

1 approval of the proposed projects of each intercity carrier,
2 eligible authority, or eligible governmental agency, other than
3 projects which are to be funded pursuant to subsection (5), the
4 state transportation commission shall consider whether the projects
5 comply with state law, are within funds allocated in this section,
6 whether they may be funded within the approved budgets, whether
7 there are intercity carriers, eligible authorities, and eligible
8 governmental agencies responsible to implement the projects, and
9 the recommendations of the department on individual projects. Upon
10 making those determinations, the state transportation commission
11 shall approve the projects which best meet the criteria of this
12 subsection.

13 (11) By October 1, the department and each intercity carrier,
14 eligible authority, or eligible governmental agency shall enter
15 into a contractual agreement or standardized grant memorandum of
16 agreement, which may cover 1 or more projects to be made from this
17 section in the applicable fiscal year to the intercity carrier,
18 eligible authority, or eligible governmental agency from the
19 comprehensive transportation fund.

20 (12) After a multiyear public transportation program is
21 approved by the state transportation commission, the state
22 transportation department may enter into a grant-in-aid instrument
23 with an eligible authority, intercity carrier, or eligible
24 governmental agency obligating the state to a minimum level of
25 funding for approved projects to be available over the multiyear
26 period of the program. This obligation shall be binding upon the
27 state transportation department as long as the provisions and

1 conditions of the state transportation commission approved program
2 are carried out as agreed.

3 (13) Contracts and grant memorandum agreements may be audited
4 by the state transportation commission's office of commission
5 audits using rules promulgated by the United States general
6 accounting office and the terms and conditions of the respective
7 contracts and agreements. Third party agreements are subject to the
8 review and approval of the department.

9 (14) Funds distributed by the department may pay 100% of the
10 portion of the cost not eligible for reimbursement by the federal
11 government for eligible capital projects authorized by the state
12 transportation commission using comprehensive transportation funds
13 or the proceeds of notes and bonds issued under section 18b.
14 Priority for funding obligation shall be given to capital projects
15 for which federal funds have been authorized.

16 (15) All approved local bus new services initiated by eligible
17 authorities and eligible governmental agencies not in their fourth
18 year or beyond of funding on October 1, 1988, shall be funded from
19 subsection (4)(c)(iii). Local bus new services shall be funded under
20 subsection (4)(c)(iii) in the following percentages of eligible
21 operating expenses as determined by the department:

22 (a) Startup 100%.

23 (b) First year 90%.

24 (c) Second year 80%.

25 (d) Third year 70%.

26 (e) Fourth year and each year thereafter, as determined by and
27 from funds provided under subsection (4)(a). The balance of

1 eligible operating expenses shall be met from local revenue sources
2 including farebox. The department shall pay up to 100% of eligible
3 capital expenses during the startup and first 3 years of service,
4 after the third year, the department shall participate in eligible
5 capital expenses in the same percentage as for other eligible
6 authorities and eligible governmental agencies. For the purposes of
7 this subsection, eligible operating and capital expenses means
8 those expenses determined by the department as applicable to
9 existing eligible authorities and eligible governmental agencies.
10 The department shall prioritize annually all requests for
11 comprehensive transportation funds to institute new services under
12 this subsection. First priority shall be given to eligible
13 authorities and eligible governmental agencies who have not
14 completed their first 3 years of service by October 1, 1998. New
15 services initiated by eligible authorities and eligible
16 governmental agencies under this subsection shall meet all of the
17 requirements of section 10.

18 (16) The department shall pay up to 80% of the portion of the
19 cost not eligible for reimbursement by the federal government for
20 intercity passenger operating assistance projects authorized by the
21 commission for the first 2 years of new services. For the third
22 year, eligible costs shall be reimbursed at up to 60% of the
23 portion of the cost not eligible for reimbursement by the federal
24 government. After the third year, eligible costs shall be
25 reimbursed at up to 50% of the portion of the cost not eligible for
26 reimbursement by the federal government. Eligible costs of services
27 provided as of September 30, 1981, shall be reimbursed at up to 50%

1 of the portion of the cost not eligible for reimbursement by the
2 federal government. However, the amount of funds from the
3 comprehensive transportation fund when added to federal funds and
4 local funds shall not exceed the total operating assistance project
5 cost.

6 (17) A vehicle purchased, leased, or rented after November 15,
7 1976, by an eligible authority or eligible governmental agency with
8 funds made available under this act, which funds were not already
9 committed under a contract in existence on November 15, 1976, shall
10 not be used to provide service on a fixed schedule and fixed route
11 for which a passenger fee is charged unless the vehicle is
12 accessible to a person using a wheelchair from a roadway level or
13 curb level, and has accommodations in which 1 or more wheelchairs
14 can be secured.

15 (18) A vehicle shall not be purchased, leased, or rented by an
16 eligible authority or eligible governmental agency after October 1,
17 1978, with funds made available under this act which vehicle is
18 used to provide demand actuated service unless the eligible
19 authority or eligible governmental agency has submitted a plan to
20 the state transportation department describing the service to be
21 provided by the demand actuated service to persons 65 years of age
22 or older and persons with disabilities within the applicable
23 service area and that plan has been approved by the department.
24 **BEGINNING OCTOBER 1, 2009, THE PLAN SHALL INCLUDE A METHOD BY WHICH**
25 **DEMAND ACTUATED SERVICE IS MADE AVAILABLE TO PERSONS WITH**
26 **DISABILITIES WHO MAY NOT RESIDE WITHIN THE APPLICABLE SERVICE AREA**
27 **BUT WHO HAVE BEEN ISSUED IDENTIFICATION CARDS THAT INDICATE THAT**

1 **THEY HAVE A PRIORITY TO USE DEMAND ACTUATED SERVICES WITHIN THE**
2 **SERVICE AREA WHERE THE PERSON WITH DISABILITIES RESIDES. THE METHOD**
3 **SHALL BE APPLIED ON THE SAME TERMS THAT DEMAND ACTUATED SERVICE IS**
4 **MADE AVAILABLE TO PERSONS WITH DISABILITIES WITHIN THE APPLICABLE**
5 **SERVICE AREA.** The department shall approve the plan as submitted or
6 modified or shall reject the plan within 60 days after the plan is
7 submitted. A plan which describes the service to be provided by the
8 demand actuated service shall not be approved by the department
9 unless that plan provides the following:

10 (a) That demand actuated service will be provided to persons
11 65 years of age or older and persons with disabilities residing in
12 the entire service area subject to the plan.

13 (b) That as a minimum, demand actuated service will be
14 provided to persons 65 years of age or older and persons with
15 disabilities during the same hours as service is provided to all
16 other persons in the service area subject to the plan.

17 (c) That the average time period required for demand actuated
18 service to persons 65 years of age or older and persons with
19 disabilities from the initiation of a service request to arrival at
20 the destination is equal to the average time period required for
21 demand actuated service provided to all other persons in the
22 service area subject to the plan.

23 (d) That the eligible authority or eligible governmental
24 agency submitting the plan has established a local advisory council
25 with not less than 50% of its membership representing persons 65
26 years of age or older and persons with disabilities within the
27 service area subject to the plan and that the local advisory

1 council has had an opportunity to review and comment upon the plan
2 before its submission to the department. Each eligible authority or
3 eligible governmental agency jointly with the area agency on aging
4 shall approve at least 1 or the equivalent of 12% of the membership
5 of the local advisory council. Each advisory council comment shall
6 be included in the plan when submitted to the department.

7 (19) Notwithstanding subsection (18), a plan required by
8 subsection (18) which is not approved or rejected by the state
9 transportation department within 60 days after submission shall be
10 considered approved as submitted.

11 (20) Subsections (17), (18), and (19) shall not apply to
12 vehicles or facilities used to transport persons by rail, air, or
13 water or to vehicles of common carriers licensed by the state
14 transportation department.

15 (21) After January 1, 1979, the department shall submit an
16 annual report to the legislature detailing the service provided in
17 the prior year for persons 65 years of age or older and persons
18 with disabilities by fixed route service and demand actuated
19 service. This report shall include a record of passenger usage and
20 shall be submitted by April 1 of each year.

21 (22) Notwithstanding any other provision of this section, for
22 each fiscal year that begins after September 30, 2009, the governor
23 and the state budget director shall include in the annual budget
24 submitted to the legislature for the ensuing fiscal period under
25 section 18 of article V of the state constitution of 1963 an
26 appropriation from a fund or funds other than the comprehensive
27 transportation fund to a street railway organized under the

1 nonprofit street railway act, 1867 PA 35, MCL 472.1 to 472.27, of a
2 sum equal to the difference between the annual operating expenses
3 of the street railway and revenue received by the street railway
4 during the same annual period, including, but not limited to, tax
5 increment revenues received by the street railway under section 23
6 of the nonprofit street railway act, 1867 PA 35, MCL 472.23. The
7 appropriation submitted in the budget under this section shall not
8 exceed 8% of the total private investment in the street railway as
9 determined by the department. A street railway is not an eligible
10 authority or eligible governmental agency for purposes of
11 subdivision (4)(a).