

HOUSE BILL No. 6034

September 13, 1990, Introduced by Rep. Law and referred to the Committee on Economic Development and Energy.

A bill to provide for transportation development districts; to provide for development fees; to provide for transportation development district trust funds; to provide for state loans for certain transportation projects and state aid to local units of government; and to provide for the powers and duties of certain state and local governmental entities and officials.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "transportation development district act".

3 Sec. 3. As used in this act:

4 (a) "County" means a duly constituted county government or
5 an appropriate governmental organization designated under section
6 5(5).

7 (b) "Department" means the state transportation department.

1 (c) "Development" means, unless the content indicates
2 otherwise, any activity for which approval is required pursuant
3 to the subdivision control act of 1967, Act No. 288 of the Public
4 Acts of 1967, being sections 560.101 to 560.293 of the Michigan
5 Compiled Laws, or for which site plan approval is required under
6 a zoning ordinance.

7 (d) "Development assessment liability date" means, with
8 respect to any transportation development district created under
9 this act, the date upon which the director adopts an order desig-
10 nating the district and delineating its boundaries.

11 (e) "Development fee" means a fee assessed on a development
12 pursuant to an ordinance adopted under section 13.

13 (f) "Director" means the director of the state transporta-
14 tion department.

15 (g) "Local unit of government" means a city, village, or
16 township.

17 (h) "Low and moderate income housing" means that term as
18 defined in section 51 of the state housing development authority
19 act of 1966, Act No. 346 of the Public Acts of 1966, being sec-
20 tion 125.1451 of the Michigan Compiled Laws.

21 (i) "Public highways" means public roads, streets, express-
22 ways, freeways, parkways, motorways, and boulevards, including
23 bridges, tunnels, overpasses, underpasses, interchanges, rest
24 areas, express bus roadways, bus pullouts and turnarounds,
25 park-ride facilities, traffic circles, grade separations, traffic
26 control devices, the elimination or improvement of crossings of
27 railroads and highways, whether at grade or not at grade, and any

1 facilities, equipment, property, rights-of-way, easements, and
2 interests needed for their construction, improvement, and
3 maintenance.

4 (j) "Public transportation project" means, in connection
5 with public transportation service or regional ridesharing pro-
6 grams, passenger stations, shelters and terminals, automobile
7 parking facilities, ramps, track connections, signal systems,
8 power systems, information and communication systems, roadbeds,
9 transit lanes or rights-of-way, equipment storage and servicing
10 facilities, bridges, grade crossings, rail cars, locomotives,
11 motorbuses and other motor vehicles, maintenance and garage
12 facilities, revenue handling equipment and any other equipment,
13 facility, or property useful for or related to the provision of
14 public transportation service or regional ridesharing programs.

15 (k) "Transportation development district" or "district"
16 means a district created under section 5 or 25.

17 (l) "Transportation project" means, in addition to public
18 highways and public transportation projects, any equipment,
19 facility, or property useful for or related to the provision of
20 any ground, waterborne, or air transportation for the movement of
21 people and goods.

22 (m) "Trust fund" means a transportation development district
23 trust fund established under section 13.

24 Sec. 5. (1) The county board of commissioners of a county
25 may apply to the director for the designation and delineation of
26 a transportation development district within the boundaries of
27 the county. The application shall include all of the following:

1 (a) Proposed boundaries for the district.

2 (b) Evidence of growth conditions in the proposed district
3 that justify creation of a transportation development district in
4 conformity with the purposes of this act and the standards estab-
5 lished by the director.

6 (c) A description of transportation needs arising from rapid
7 development within the district.

8 (d) Certification that there is in effect for the county a
9 current county development plan adopted under Act No. 282 of the
10 Public Acts of 1945, being sections 125.101 to 125.107 of the
11 Michigan Compiled Laws, and that creation of the district would
12 be in conformity with the county development plan.

13 (e) Certification that local units of government included
14 wholly or partly in the district, or which would be directly
15 affected by the delineation or designation of the district, have
16 been given at least 30 days' advance notice of the application
17 and an opportunity to comment on the application.

18 (f) Comments offered by any of the local units of government
19 described in subdivision (e), and the response, if any, to these
20 comments by the county.

21 (g) Any additional information that the director may
22 require.

23 (2) The director shall review the application as to suffi-
24 ciency and conformity with the purposes of this act. Within 60
25 days after receipt of a completed application, the director shall
26 do 1 or more of the following:

1 (a) By order designate a district and delineate its
2 boundaries in conformance with the application.

3 (b) Disapprove the application and inform the county board
4 of commissioners in writing of the reasons for the disapproval.

5 (c) If the director finds that the creation of a district is
6 critically important and that the application of the county is
7 sufficient in every respect except the appropriateness of the
8 proposed boundaries for the district, the director shall by order
9 designate a district and delineate its boundaries and inform the
10 county board of commissioners in writing of the reasons for the
11 alteration of the proposed boundaries.

12 (3) Unless the county board of commissioners agrees to an
13 extension of time, if the director fails to act under subsection
14 (2) within 60 days, the application is approved and, on the next
15 business day, the director shall issue an order designating the
16 district and delineating its boundaries in conformance with the
17 application. If the county board of commissioners' application
18 is disapproved, the county board of commissioners may resubmit an
19 application incorporating revisions it considers appropriate,
20 taking into consideration the director's reasons for
21 disapproval.

22 (4) If, in response to a petition by a local unit of govern-
23 ment under section 29, the county board of commissioners of a
24 county adopts a resolution stating its intention not to proceed
25 with an application, adopts a resolution stating its intention to
26 proceed with an application but fails to submit the application
27 within 120 days of adopting that resolution, or fails to adopt a

1 resolution stating its intent to submit an application
2 substantially consistent with the petition within 90 days after
3 receipt of the petition, the governing body of the local unit of
4 government that submitted the petition or the governing body of
5 any local unit of government within the county that would be
6 directly affected by the designation and delineation of a dis-
7 trict may apply directly to the director for the designation and
8 delineation of a district.

9 (5) Upon receipt of an application under subsection (4), the
10 director shall proceed in the same manner as he or she is
11 required to proceed upon receipt of an application under subsec-
12 tions (2) and (3). However, if the director proceeds in the
13 manner provided under subsection (2)(a) or (c), the director
14 shall also designate an appropriate governmental organization
15 that has sufficient power to administer the district and that
16 permits representation from each participating local unit of
17 government. In addition, if the department and the governing
18 body of the local unit of government submitting the application
19 are negotiating under this subsection or subsection (2) or (3),
20 the 60-day time frame may be suspended by mutual agreement. If
21 the application is disapproved, the governing body of the local
22 unit of government submitting the application may resubmit
23 directly to the director an application incorporating revisions
24 the governing body considers appropriate, taking into considera-
25 tion the director's reasons for disapproval.

26 Sec. 7. Pursuant to the administrative procedures act of
27 1969, Act No. 306 of the Public Acts of 1969, being sections

1 24.201 to 24.328 of the Michigan Compiled Laws, the department
2 shall adopt rules setting forth criteria any 1 of which is suffi-
3 cient evidence of growth conditions prevailing in an area to jus-
4 tify creation of a transportation development district under this
5 act. The criteria shall include all of the following:

6 (a) A growth rate for estimated population or employment in
7 excess of 10% in 3 of the past 5 years in at least 3 contiguous
8 local units of government.

9 (b) Projected local traffic growth generated from new devel-
10 opment in excess of 50% in a 5-year period.

11 (c) Commercial development, retail development, or both,
12 projected at a rate of 1,000,000 square feet of developed struc-
13 ture per square mile in a 5-year period.

14 (d) Projected growth in population or in employment in
15 excess of 20% over a 10-year period.

16 (e) At the discretion of the department, additional criteria
17 that recognize existing traffic congestion or serve to effectuate
18 the purposes of this act.

19 Sec. 9. (1) Following the director's designation and delin-
20 eation of a district under section 5, the board of county commis-
21 sioners of the county shall initiate a joint planning process for
22 the district, with opportunity for participation by this state,
23 affected counties and local units of government, and representa-
24 tives of private interests. Each affected local unit of govern-
25 ment shall be notified by the county at the commencement of the
26 joint planning process. The joint planning process shall produce

1 a draft district transportation improvement plan and a draft
2 financial plan.

3 (2) The draft district transportation improvement plan shall
4 satisfy all of the following requirements:

5 (a) Establish goals and priorities for all modes of trans-
6 portation within the district.

7 (b) Incorporate the relevant plans of all transportation
8 agencies within the district.

9 (c) Contain a program of transportation projects that
10 addresses transportation needs arising from rapid growth condi-
11 tions prevailing in the district and that therefore warrants
12 financing in whole or in part from a trust fund.

13 (d) Provide for the assessment of development fees based
14 upon the applicable formula as established by rules promulgated
15 by the department.

16 (e) Be in accordance with the report of the state transpor-
17 tation commission pursuant to section 10h of Act No. 51 of the
18 Public Acts of 1951, being section 247.660h of the Michigan
19 Compiled Laws, and the county development plan, if any, prepared
20 under Act No. 282 of the Public Acts of 1945, being sections
21 125.101 to 125.107 of the Michigan Compiled Laws.

22 (f) To the extent appropriate, given the districtwide objec-
23 tives of the plan, be coordinated with local zoning ordinances
24 adopted pursuant to Act No. 207 of the Public Acts of 1921, being
25 sections 125.581 to 125.592 of the Michigan Compiled Laws, the
26 county rural zoning enabling act, Act No. 183 of the Public Acts
27 of 1943, being sections 125.201 to 125.232 of the Michigan

1 Compiled Laws, or the township rural zoning act, Act No. 184 of
2 the Public Acts of 1943, being sections 125.271 to 125.301 of the
3 Michigan Compiled Laws, or plans adopted pursuant to Act No. 285
4 of the Public Acts of 1931, being sections 125.31 to 125.45 of
5 the Michigan Compiled Laws, Act No. 281 of the Public Acts of
6 1945, being sections 125.11 to 125.25 of the Michigan Compiled
7 Laws, Act No. 282 of the Public Acts of 1945, being sections
8 125.101 to 125.107 of the Michigan Compiled Laws, or Act No. 168
9 of the Public Acts of 1959, being sections 125.321 to 125.333 of
10 the Michigan Compiled Laws.

11 (3) The draft financial plan shall include an identification
12 of projected available financial resources for financing trans-
13 portation projects in the district outlined in the draft district
14 transportation improvement plan, including recommendations for
15 types and rates of development fees to be assessed under section
16 13, and projected annual revenue from the development fees.

17 (4) The county board of commissioners of the county shall
18 make copies of the draft district transportation improvement plan
19 and the draft financial plan available to the public for inspec-
20 tion and shall hold a public hearing on the draft plans pursuant
21 to the open meetings act, Act No. 267 of the Public Acts of 1976,
22 being sections 15.261 to 15.275 of the Michigan Compiled Laws.

23 Sec. 11. (1) The county board of commissioners of a county
24 that satisfies all the requirements of section 9 may by ordinance
25 adopt a district transportation improvement plan. The district
26 transportation improvement plan shall be derived from the draft
27 district transportation improvement plan developed under section

1 9 and shall contain a financial plan for transportation projects
2 intended to be developed over time in whole or in part from a
3 trust fund established under section 13 of this act. The finan-
4 cial plan shall be derived from the draft financial plan devel-
5 oped under section 9. The district transportation improvement
6 plan shall be consistent with any existing capital improvements
7 program and incorporated into any future capital improvements
8 program, and shall be consistent with any transportation improve-
9 ment program that the county road commission prepares under sec-
10 tion 14 of Act No. 51 of the Public Acts of 1951, being section
11 247.664 of the Michigan Compiled Laws.

12 (2) An ordinance adopted under this section shall not take
13 effect until approved by the director. In evaluating the dis-
14 trict transportation improvement plan, the director shall take
15 into consideration all of the following:

16 (a) The appropriateness of the district boundaries in light
17 of the findings of the plan.

18 (b) The appropriateness of the content and timing of the
19 program of projects intended to be financed in whole or in part
20 from the district trust fund in relation to the transportation
21 needs stemming from rapid growth in the district.

22 (c) The hearing record of the public hearing held prior to
23 adoption of the ordinance or resolution.

24 (d) Any written comments submitted by local units of govern-
25 ment or other parties.

26 (e) Consistency with the plan requirements set forth in
27 section 9(2).

1 (3) The director shall complete the review of the ordinance
2 and shall notify the county board of commissioners in writing of
3 the approval or disapproval within 90 days of receipt. Unless an
4 extension is mutually approved, if the director fails to notify
5 the county board of commissioners within 90 days, the ordinance
6 is considered to be approved. The written notice shall be accom-
7 panied, in the case of approval, by the director's estimate of
8 the resources that may be available to support implementation of
9 the plan and, in the case of disapproval, by the reasons for that
10 disapproval. The county board of commissioners may, in the case
11 of a disapproval, resubmit an ordinance or an amendment to the
12 ordinance incorporating whatever revisions it considers appropri-
13 ate, taking into consideration the director's reasons for
14 disapproval.

15 Sec. 13. (1) The county board of commissioners may provide,
16 by ordinance, for the assessment and collection of development
17 fees on developments within the district after the effective date
18 of an ordinance adopted under section 11.

19 (2) The development fee ordinance shall specify that the fee
20 be assessed on a development when the development receives final
21 approval of a preliminary plat under the subdivision control act
22 of 1967, Act No. 288 of the Public Acts of 1967, being sections
23 560.101 to 560.293 of the Michigan Compiled Laws, or approval of
24 a site plan under a zoning ordinance, whichever occurs first.

25 (3) The development fee ordinance shall specify whether the
26 fee is to be paid at the time a building permit is issued or in a
27 series of payments, as set forth in a schedule of payments

1 contained in the development fee ordinance. The development fee
2 ordinance may provide for payment of the fee in installments over
3 a period of no longer than 20 years. The payments due to the
4 county, whether as a lump sum or as installments due, are
5 enforceable by the county as a lien on the land and any improve-
6 ments on the land. The lien shall be recorded by the county
7 treasurer in the county register of deeds office. The develop-
8 ment fee ordinance shall set forth the procedures for enforcement
9 of the lien in the event of delinquencies. When the fee is paid
10 in full on the development or portion of the development, the
11 county treasurer shall file a statement releasing the lien on the
12 development or portion of the development, as appropriate. The
13 development fee ordinance shall provide for the procedure by
14 which any portion of the land and any improvements on the land
15 shall be released from the lien required by this section and
16 shall require that any lien filed pursuant to this section con-
17 tain a provision citing the release procedures. If installment
18 payments are to be made and the responsible person fails to make
19 a payment within 30 days after receipt of a notice of late pay-
20 ment, that person is in default and is obligated to pay the bal-
21 ance in its entirety.

22 (4) Any development or phase of development that receives
23 final approval of a preliminary plat under Act No. 288 of the
24 Public Acts of 1967 or approval of a site plan under a zoning
25 ordinance before the development assessment liability date is not
26 subject to the assessment and collection of a development fee
27 under this act. Any development or phase of development that

1 receives final approval of a preliminary plat under Act No. 288
2 of the Public Acts of 1967 or approval of a site plan under a
3 zoning ordinance after the development liability assessment date
4 is subject to the assessment and collection of a development fee
5 under this act.

6 (5) The development fee ordinance also shall provide for the
7 establishment of a transportation development district trust fund
8 under the control of the county treasurer. Development fees and
9 any other funds available for the purposes of this act shall be
10 deposited into the trust fund. The funds in the trust fund shall
11 be invested in an interest bearing account.

12 (6) A development fee ordinance also may contain provisions
13 for 1 or more of the following:

14 (a) Delineating a core area within the district within which
15 the conditions justifying creation of the district are most acute
16 and providing for a reduced development fee rate to apply to
17 developments inside that core area.

18 (b) Credits against assessed development fees for payments
19 made or expenses incurred that have been determined by the county
20 board of commissioners to be in furtherance of the district
21 transportation improvement plan, including, but not limited to,
22 costs attributable to the promotion of public transit or ride-
23 sharing, and contributions to transportation improvements other
24 than those required for safe and efficient highway access to a
25 development.

26 (c) Exemptions from or reduced rates for development fees
27 for specified land uses that are determined by the county board

1 of commissioners to have a beneficial impact, neutral impact, or
2 comparatively minor adverse impact on the transportation needs of
3 the district.

4 (d) A reduced rate of development fees for developments for
5 which building permits were issued after the development assess-
6 ment liability date but before the effective date of the develop-
7 ment fee ordinance, if those dates are different.

8 (e) A reduced rate of development fees for developers sub-
9 mitting a peak-hour automobile trip reduction plan approved by
10 the director under standards adopted by the director by rule.
11 Standards for the approval of peak-hour automobile trip reduction
12 plans may include, but need not be limited to, physical design
13 for improved transit, ridesharing, and pedestrian access; incor-
14 poration of residential uses into predominantly nonresidential
15 development; and proximity to potential labor pools. The dis-
16 trict transportation improvement plan shall exempt from develop-
17 ment fees any development of low and moderate income housing.

18 (7) The district transportation improvement plan shall spec-
19 ify that any fees collected, plus earned interest, not committed
20 to a transportation project under a project agreement entered
21 into under section 17 within 10 years of the date of collection
22 shall be refunded under a procedure to be prescribed by the
23 director by rule. The refund shall be made to the payer of the
24 fee unless the payer of the fee conveys the development or any
25 portion of the development to a person and enters into an agree-
26 ment with that person providing for a different distribution of

1 the refund. The agreement shall be in a form, and shall be filed
2 with the county officer, prescribed by the director by rule.

3 (8) A district transportation development plan shall be suf-
4 ficiently certain and definitive to enable every person who may
5 be required to pay a fee to know or calculate the limit and
6 extent of the fee that will be assessed against a specific devel-
7 opment proposal. Development fees shall be reasonably related to
8 the added traffic growth attributable to the development that is
9 subject to the assessment, and the maximum amount of fees for
10 transportation improvements that may be charged to any develop-
11 ment by this state, a county, or a local unit of government pur-
12 suant to this act or any other law and shall not exceed the prop-
13 erty owner's fair share of the improvement costs based on the
14 added traffic growth attributable to the proposed development or
15 phase of the proposed development. Approval of a development
16 application by this state, a county, or a local unit of govern-
17 ment shall not be withheld or delayed because of the necessity to
18 construct an off-site transportation improvement if the developer
19 has contributed the developer's fair share obligation under the
20 provisions of this act.

21 (9) A person who is assessed a development fee under the
22 provisions of an ordinance adopted pursuant to this section may
23 appeal the assessment by filing an appeal with the director
24 within 90 days of the receipt of notification of the amount of
25 the assessment, on the grounds that the county board of commis-
26 sioners or its officers or employees in issuing the assessment
27 did not abide by the provisions of this act or the provisions of

1 the development fee ordinance adopted under this act or of the
2 rules and regulations adopted by the director pursuant to this
3 act. The decision of the director constitutes a final decision
4 subject to review by the circuit court. Nothing contained in
5 this section limits the ability of any person so assessed from
6 filing an appeal based upon an agreement to pay or actual payment
7 of the fee.

8 Sec. 15. (1) An ordinance adopted under section 13 shall
9 provide for the assessment of development fees based upon a for-
10 mula authorized by the director, by rule, and uniformly applied,
11 with such exceptions as are authorized or required by this act
12 and by rule. The director may establish different formulas for
13 different categories of districts. The director may authorize a
14 formula or formulas relating the amount of the fee to impact on
15 the transportation system, including, but not limited to, the
16 following factors:

17 (a) Vehicle trips generated by the development.

18 (b) The occupied square footage of a developed structure.

19 (c) The number of employees regularly employed at the
20 development.

21 (d) The number of parking spaces located at the
22 development.

23 (2) In developing the authorized formula or formulas, the
24 director shall consult with knowledgeable persons in appropriate
25 fields, which may include, but need not be limited to, land use
26 law, planning, traffic engineering, real estate development,
27 transportation, and local government. No separate or additional

1 assessments for off-site transportation improvements within the
2 district shall be made by this state, a county, or a local unit
3 of government, except as provided in this act.

4 Sec. 17. (1) A transportation project funded in whole or in
5 part by funds from a trust fund shall be subject to a transporta-
6 tion project agreement to which the director is a party. A
7 transportation project for which a transportation project agree-
8 ment has been executed shall be included in a district transpor-
9 tion improvement plan adopted by an ordinance under section
10 11.

11 (2) A transportation project agreement may include other
12 parties, including, but not limited to, counties, local units of
13 government, and the contractor for the transportation project. A
14 transportation project agreement shall provide for the assignment
15 of financial obligations among the parties, and those provisions
16 for discharging respective financial obligations as the parties
17 shall agree upon. A transportation project agreement also shall
18 make provision for arrangements among the parties that are neces-
19 sary and convenient for undertaking and completing a transporta-
20 tion project. A transportation project agreement may provide
21 that a county may pledge funds in a trust fund or revenues to be
22 received from development fees for the repayment of debt incurred
23 under any debt instrument that the county may be authorized by
24 law to issue. A transportation project agreement may be made
25 with or without consideration and for a specified or an unlimited
26 time and is valid whether or not an appropriation with respect to
27 the transportation project agreement is made by the county or

1 local unit of government before the authorization or execution of
2 the transportation project agreement.

3 (3) A county or local unit of government may undertake all
4 or part of a transportation project that involves property within
5 the jurisdiction of another county or local unit of government
6 and may exercise all powers necessary for the transportation
7 project as permitted by law and agreed to in the transportation
8 project agreement.

9 Sec. 19. An expenditure of funds shall not be made from a
10 trust fund except by appropriation by the county board of commis-
11 sioners of the county or the governing body of another appropri-
12 ate governmental organization as designated by the director under
13 this act, and upon certification of the county treasurer or the
14 appropriate financial officer of the designated governmental
15 organization, as appropriate, that the expenditure is in accord-
16 ance with a transportation project agreement entered into under
17 section 17.

18 Sec. 21. The director may, subject to the availability of
19 appropriations for this purpose and pursuant to a transportation
20 project agreement entered into under section 17, make loans to a
21 party to a transportation project agreement for the purpose of
22 undertaking and completing a state owned transportation project.
23 In this event, the transportation project agreement shall include
24 the obligation of the county board of commissioners to make pay-
25 ments to the director for repayment of the loan according to an
26 agreed upon schedule of payments.

1 Sec. 23. The county board of commissioners of 2 or more
2 counties that establish or propose to establish adjoining
3 transportation development districts, and that determine that
4 joint or coordinated planning or implementation of transportation
5 projects would be beneficial, may enter into joint arrangements
6 under this act, including all of the following:

7 (a) Filing joint applications under section 5.

8 (b) Initiating a coordinated joint planning process under
9 section 9.

10 (c) Adopting coordinated district transportation improvement
11 plans under section 11.

12 (d) Entering into joint transportation project agreements
13 under section 17.

14 Sec. 25. (1) In accordance with rules adopted pursuant to
15 section 7, the director may find that certain designated areas of
16 the state are growth areas and that existing financial resources
17 and existing mechanisms for securing financial commitments for
18 transportation improvements are inadequate to meet transportation
19 improvement needs that are the result of rapid development in
20 these areas. The director shall promptly notify the county board
21 of commissioners of each county containing such a growth area of
22 the director's finding. Subsequently, if the county board of
23 commissioners of a county containing a growth area does not take
24 action to establish a district or districts in the area pursuant
25 to the provisions of this act after sufficient time elapses for
26 it to do so, the director may request the county board of
27 commissioners of the county to apply for the designation and

1 delineation of a transportation development district under
2 section 5. The request shall set forth in detail the reasons
3 that, in the judgment of the director, justify the creation of a
4 transportation development district in conformity with the pur-
5 pose of this act. The reasons may be based upon a comprehensive
6 development plan for the area issued by the department after
7 holding a public hearing in the area in question pursuant to the
8 open meetings act, Act No. 267 of the Public Acts of 1976, being
9 sections 15.261 to 15.275 of the Michigan Compiled Laws. The
10 finding by the director that certain areas of this state are
11 growth areas does not necessarily constitute a determination and
12 designation of all growth areas in this state and does not pre-
13 clude the county board of commissioners of a county from estab-
14 lishing a transportation development district within any portion
15 of that county in accordance with this act.

16 (2) The county board of commissioners of the county shall,
17 within 90 days of the receipt of the request submitted under sub-
18 section (1), respond to the request by adoption of a resolution
19 stating whether the county board of commissioners intends to
20 apply for the designation and delineation of a transportation
21 development district under section 5. If the county board of
22 commissioners intends not to proceed, the resolution shall set
23 forth the reasons for not proceeding. The resolution shall be
24 transmitted to the governing body of each local unit of govern-
25 ment that would, in the judgment of the county board of commis-
26 sioners, be directly affected by the designation and delineation

1 of a transportation development district as proposed in the
2 request.

3 (3) The director may request the county boards of commis-
4 sioners of 2 or more counties to apply for the designation and
5 delineation of adjoining transportation development districts in
6 accordance with the procedures provided for in subsections (1)
7 and (2).

8 (4) If a county board of commissioners receives a request
9 from the director to apply for the designation and delineation of
10 a transportation development district, and fails to respond to
11 the director's request within the time permitted or states that
12 it does not intend to apply, or otherwise fails to take action to
13 establish the requested district, and, in the opinion of the
14 director, the creation of a district or districts is critically
15 important, then, upon 90 days' notice to the county board of com-
16 missioners and the governing body of each local unit of govern-
17 ment directly affected by the designation and delineation of the
18 proposed district, and the holding of a public hearing, pursuant
19 to Act No. 267 of the Public Acts of 1976, the director may by
20 order designate the district and delineate its boundaries. The
21 functions, powers, and duties of the county board of commission-
22 ers of the county concerning transportation development districts
23 as authorized by this act shall be exercised by the director
24 through rules and orders concerning a district created under this
25 subsection in substantially the same manner as would be exercised
26 by the county board of commissioners of the county pursuant to
27 this act. In a district so created, development fees shall be

1 assessed by order of the director after holding a public hearing
2 pursuant to Act No. 267 of the Public Acts of 1976. These fees
3 shall only be assessed, and disbursed from the transportation
4 development district trust fund, for projects other than county
5 transportation projects. Appeals from these assessments shall be
6 referred to a hearing officer by the director for an evidentiary
7 hearing. If the director modifies or rejects the resultant
8 report and decision, the action of the director may be appealed
9 to the circuit court. Notwithstanding that the county board of
10 commissioners of the county may not have participated in the
11 establishment of a district, the county board of commissioners
12 may request the director to permit it to participate fully in the
13 operation of the district. Upon the granting of this request by
14 the director, on whatever terms and conditions the director con-
15 siderers appropriate, the county board of commissioners shall
16 assume full responsibility for the operation of the district and
17 the assessment of fees, as if the district were established pur-
18 suant to an application by the county board of commissioners
19 under section 5.

20 (5) In designating and delineating a district, and in estab-
21 lishing district transportation improvement and financial plans
22 for the district, the director shall act in accordance with rules
23 promulgated by the department.

24 Sec. 27. (1) The county board of commissioners of a county
25 within which a transportation development district is designated
26 under section 5 may apply to the director for the dissolution of
27 the district. The application shall include the reasons for the

1 proposed dissolution and a plan for disbursing any funds
2 remaining in the trust fund, whether by refunds to owners of
3 property on which the fees were assessed or otherwise, and for
4 concluding the business of the district generally.

5 (2) Within 60 days of the receipt of a completed applica-
6 tion, the director shall do either of the following:

7 (a) By order dissolve the district and approve the county's
8 plan for concluding the business of the district.

9 (b) Disapprove the application and inform the county board
10 of commissioners in writing of the reasons for the disapproval
11 and any conditions or changes in the plan for concluding the
12 business of the district that the director believes to be neces-
13 sary in the public interest.

14 Sec. 29. (1) The governing body of a local unit of govern-
15 ment may petition the county board of commissioners of the county
16 in which it is located to apply for the designation and delinea-
17 tion of a transportation development district under section 5.
18 The petition shall set forth in detail the reasons that, in the
19 judgment of the governing body, justify the creation of a trans-
20 portation development district in conformity with the purpose of
21 this act.

22 (2) The county board of commissioners of the county shall,
23 within 90 days of the receipt of a petition submitted under sub-
24 section (1), respond to the petition by adoption of a resolution
25 stating whether the county board of commissioners intends to
26 apply for the designation and delineation of a transportation
27 development district under section 5. If the county board of

1 commissioners intends not to proceed, the resolution shall set
2 forth the reasons for not proceeding. The resolution shall be
3 transmitted to the governing body submitting the petition and to
4 the governing body of each local unit of government that would,
5 in the judgment of the county board of commissioners of the
6 county, be directly affected by the designation and delineation
7 of a transportation development district as proposed in the
8 petition.

9 (3) The petition described in subsection (1) may be initi-
10 ated by 1 or more local units of government.

11 Sec. 31. (1) Except as provided by this act, a county shall
12 not establish or operate a district within the boundaries delin-
13 eated by the director for a transportation development district
14 under section 5 if the district is for the purpose of consolidat-
15 ing the required contributions for transportation improvements of
16 applicants for development within the district.

17 (2) Approval of a development application by a governmental
18 entity shall not be withheld or delayed because the proposed
19 development is within a proposed or pending transportation devel-
20 opment district. The development application shall be considered
21 in accordance with the applicable law, rule, ordinance, or reso-
22 lution in effect at the time of application.

23 Sec. 33. (1) The director shall, subject to the availabil-
24 ity of appropriations, allocate state aid under the terms and
25 conditions of this act to counties that have established trans-
26 portation development districts. State aid provided under this
27 section shall be provided for the purpose of undertaking

1 transportation projects in district transportation improvement
2 plans approved under section 11 and for the purpose of assisting
3 in the preparation of district transportation improvement plans
4 under section 9 and shall be allocated on a pro rata basis among
5 all counties that have established transportation development
6 districts in proportion to the development fees assessed within a
7 district or in proportion to funds appropriated by a county for
8 the preparation of a district transportation improvement plan, as
9 appropriate. However, the total amount of state aid so allocated
10 shall not exceed the total amount of development fees assessed in
11 all transportation development districts and district transporta-
12 tion improvement plan preparation funds appropriated by all
13 counties.

14 (2) If the director determines in any fiscal year that the
15 funds appropriated for the purposes of this section exceed the
16 total amount of development fees assessed and district transpor-
17 tation improvement plan preparation funds appropriated by coun-
18 ties that have established transportation development districts,
19 the director may allocate these funds to counties and local units
20 of government at the director's discretion for purposes consis-
21 tent with this act.

22 Sec. 35. Pursuant to the administrative procedures act of
23 1969, Act No. 306 of the Public Acts of 1969, being sections
24 24.201 to 24.328 of the Michigan Compiled Laws, the department
25 shall promulgate rules necessary to effectuate the purposes of
26 this act.