

SENATE BILL No. 126

January 30, 2003, Introduced by Senators PATTERSON, GILBERT, SANBORN, CASSIS, TOY, BISHOP, GOSCHKA and JOHNSON 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, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund,

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

by amending section 12 (MCL 247.662), as amended by 2002 PA 498, and by adding section 20b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 12. (1) The amount distributed to the county road
2 commissions shall be returned to the county treasurers in the
3 manner, for the purposes, and under the terms and conditions
4 specified in this section. The department and the county road
5 association of Michigan shall jointly develop incentives for
6 counties to establish statewide purchasing pools for the more
7 efficient use of Michigan transportation funds.
- 8 (2) Each county road commission shall be reimbursed in an
9 amount up to \$10,000.00 per year for the sum paid to a licensed
10 professional engineer employed or retained by the county road
11 commission in the previous year. The sum shall be returned to
12 each county road commission certified by the state transportation
13 department as complying with this subsection regarding the
14 employment of an engineer.
- 15 (3) An amount equal to 1% of the total amount returned to the

1 county road commissions from the Michigan transportation fund
2 during the prior calendar year shall be withheld annually from
3 the counties' November monthly distribution provided for in
4 section 17, and the amount shall be returned to the county road
5 commissions for snow removal purposes as provided in
6 section 12a.

7 (4) An amount equal to ~~10%~~ 15% of the total amount returned
8 to the county road commissions from the Michigan transportation
9 fund shall be returned to each county road commission having
10 county primary, or county local road, or both, mileage in the
11 urban areas as determined pursuant to section 12b. This sum
12 shall be distributed pursuant to section 12b. The return shall
13 be in addition to the amounts provided in subsections (6) and (7)
14 and for the purposes stated in those subsections.

15 (5) An amount equal to ~~4%~~ 15% of the total amount returned
16 to the county road commissions from the Michigan transportation
17 fund shall be returned to the county road commissions in the same
18 percentages as provided in subsection (7). All money returned to
19 the county road commissions as provided in this subsection shall
20 be expended by the county road commissions for the preservation,
21 construction, acquisition, and extension of county local road
22 systems and shall be in addition to the amounts provided in
23 subsection (7).

24 (6) Seventy-five percent of the remainder of the total amount
25 to be returned to the counties shall be expended by each county
26 road commission for the preservation, construction, acquisition,
27 and extension of the county primary road system, including the

1 acquisition of a necessary right of way for the system, work
2 incidental to the system, and a roadside park or motor parkway
3 appurtenant to the system, and shall be returned to the counties
4 as follows:

5 (a) Three-fourths of the amount in proportion to the amount
6 received within the respective county during the 12 months next
7 preceding the date of each monthly distribution, as specific
8 taxes upon registered motor vehicles under the Michigan vehicle
9 code, 1949 PA 300, MCL 257.1 to 257.923.

10 (b) One-tenth of the amount in the same proportion that the
11 total mileage in the county primary road system of each county
12 bears to the total mileage in all of the county primary road
13 systems of the state.

14 (c) One eighty-third of the remaining 15% of the amount to
15 each county.

16 (7) The balance of the remainder of the total amount to be
17 returned to counties shall be expended by each county road
18 commission for the preservation, construction, acquisition, and
19 extension of the county local road system as defined by this act,
20 including the acquisition of a necessary right of way for the
21 system, work incidental to the system, and a roadside park or
22 motor parkway appurtenant to the system, and shall be returned to
23 the counties as follows:

24 (a) Sixty-five percent of the amount in the same proportion
25 that the total mileage in the county local road system of each
26 county bears to the total mileage in all of the county local road
27 systems of the state.

1 (b) Thirty-five percent of the amount in the same proportion
2 that the total population outside of incorporated municipalities
3 in each county bears to the total population outside of
4 incorporated municipalities in all of the counties of the state,
5 according to the most recent statewide federal census as
6 certified at the beginning of the state fiscal year.

7 (8) Money deposited in, or becoming a part of the county road
8 funds of a board of county road commissioners shall be expended
9 first for the payment of principal and interest on the bonds, for
10 the payment of contractual contributions pledged for the payment
11 of bonds, for debt service requirements for the payment of
12 contractual contributions pledged for the payment of bonds, and
13 for debt service requirements for the payment of notes and loans
14 in the following order of priority:

15 (a) For the payment of contributions required to be made by a
16 board of county road commissioners under a contract entered into
17 under 1941 PA 205, MCL 252.51 to 252.64, which contributions have
18 been pledged for the payment of the principal and interest on
19 bonds issued under that act, or for the payment of total debt
20 service requirements upon notes issued by a board of county road
21 commissioners under 1943 PA 143, MCL 141.251 to 141.254.

22 (b) For the payment of principal and interest upon bonds
23 issued under section 18c, and the payment of contributions of a
24 board of county road commissioners to be made pursuant to
25 contracts entered into under section 18d, which contributions are
26 pledged to the payment of principal and interest on bonds issued
27 after June 30, 1957, under the authorization of section 18c and

1 contracts executed pursuant to its provisions.

2 (c) For the payment of principal and interest upon loans
3 received pursuant to section 11(7), to the extent other funds
4 have not been made available for that payment.

5 (9) Not to exceed 30% per year of the amount returned to a
6 county for use on the county primary road system may be expended,
7 with or without matching, on the county local road system of that
8 county. Not to exceed 15% per year of the amount returned to a
9 county for expenditure on the county local road system may be
10 used, with or without matching, on the county primary road system
11 of that county, and not to exceed an additional 15% per year of
12 the amount returned to a county for expenditure on the county
13 local road system, may, in case of an emergency or with the
14 approval of the state transportation department, be expended,
15 with or without matching, on the county primary road system of
16 that county. An amount returned to a county for and on account
17 of county local roads, under this section, in excess of the total
18 amount paid into the county treasury each year by all of the
19 townships of that county for and on account of the county local
20 roads pursuant to section 14(6) may be transferred to and
21 expended on the county primary road system of that county.

22 (10) Not less than 20% per year of the funds returned to a
23 county by this section shall be expended for snow and ice
24 removal, the construction or reconstruction of a new highway or
25 existing highway, and the acquisition of a necessary right of way
26 for those highways, and work incidental to those highways, or for
27 the servicing of bonds issued by the county for these purposes.

1 Surplus funds may be expended for the development, construction,
2 or repair of an off-street parking facility.

3 (11) Not more than 5% per year of the funds returned to a
4 county for the county primary road system and the county local
5 road system shall be expended for the maintenance, improvement,
6 or acquisition of appurtenant roadside parks and motor parkways.

7 (12) Funds returned to a county shall be expended by the
8 county road commission for the purposes provided in this section
9 and shall be deposited by the county treasurer in a designated
10 county depository, in a separate account to the credit of the
11 county road fund, and shall be paid out only upon the order of
12 the county road commission, and interest accruing on the money
13 shall become a part of, and be deposited with the county road
14 fund.

15 (13) In a county to which the funds are returned the function
16 of the county road commission shall be limited to the formation
17 of policy and the performance of the official duties imposed by
18 law and delegated by the county board of commissioners. A member
19 of the county road commission shall not be employed individually
20 in any other capacity for other duties with the county road
21 commission.

22 (14) A county road commission may enter into an agreement
23 with a county road commission of an adjacent county and with a
24 city or village to perform work on a highway, road, or street,
25 and with the state transportation department with respect to a
26 state trunk line and connecting links of the state trunk line
27 within the limits of the county or adjacent to the county. The

1 agreement may provide for the performance by each contracting
2 party of the work contemplated by the contract including
3 engineering services and the acquisition of rights of way in
4 connection with the work contemplated, by purchase or
5 condemnation, by any of the contracting parties in its own name
6 and the agreement may provide for joint participation in the
7 costs.

8 (15) Money distributed from the Michigan transportation fund
9 may be expended for construction purposes on county local roads
10 only to the extent matched by money from other sources. However,
11 Michigan transportation funds may be expended for the
12 construction of bridges on the county local roads in an amount
13 not to exceed 75% of the cost of the construction of local road
14 bridges. This subsection does not apply to section 11b.

15 (16) Notwithstanding any other provision of this act, at
16 least 90% of the state revenue returned annually to the county
17 road commission from the Michigan transportation fund less the
18 amounts described in subdivisions (a) to (e) shall be expended
19 annually by the county road commission for the preservation of
20 highways, roads, streets, and bridges, and for the payment of
21 contractual contributions pledged for the payment of bonds or
22 portions of bonds, debt service requirements for the payment of
23 bonds or portions of bonds, and debt service requirements for the
24 payment of notes and loans or portions of notes and loans issued
25 or received after July 1, 1983, for the purpose of providing
26 funds for the preservation of highways, roads, streets, and
27 bridges. If an appropriate certificate is filed under

1 subsection (19) but only to the extent necessary, this subsection
2 shall not prohibit the use of any amount of state revenue
3 returned annually to the county road commissions for the payment
4 of contractual contributions pledged for the payment of bonds,
5 for debt service requirements for the payment of bonds, and for
6 debt service requirements for the payment of notes or loans,
7 whenever issued or received, as specified under subsection (8).
8 The amounts which are deducted from the state revenue returned to
9 a county road commission from the Michigan transportation fund,
10 for the purpose of the calculation required by this subsection
11 are as follows:

12 (a) Amounts expended for the purposes described in subsection
13 (8) for bonds, notes, loans, or other obligations issued or
14 received before July 2, 1983.

15 (b) Amounts expended for the administrative costs of the
16 county road commission.

17 (c) Amounts expended for capital outlay projects for
18 equipment and buildings, and for the payment of contractual
19 contributions pledged for the payment of bonds, for debt service
20 requirements for the payment of bonds, and for debt service
21 requirements for the payment of notes and loans issued or
22 received after July 1, 1983, for the purpose of providing funds
23 for capital outlay projects for equipment and buildings.

24 (d) Amounts expended for projects vital to the economy of the
25 local area or the safety of the public in the local area. Before
26 these amounts can be deducted, the governing body over the county
27 road commission or the county road commission, as applicable,

1 shall pass a resolution approving these projects. This
2 resolution shall state which projects will be funded and the cost
3 of each project. A copy of each approved resolution shall be
4 forwarded immediately to the department.

5 (e) Amounts expended in urban areas as determined pursuant to
6 section 12b.

7 (17) As used in this subsection, "urban routes" means those
8 portions of 2-lane county primary roads within an urban area
9 ~~which has~~ **that have** average daily traffic in excess of 15,000.
10 Notwithstanding any other provision of this act, except as
11 provided in this subsection, a county road commission shall
12 expend annually at least 90% of the federal revenue distributed
13 to the use of the county road commission for highways, roads,
14 streets, and bridges, less the amount expended on urban routes
15 for other than preservation purposes and the amount expended for
16 hard-surfacing of gravel roads on the federal-aid system, on the
17 preservation of highways, roads, streets, and bridges. A county
18 road commission may expend in a year less than 90% of the federal
19 revenue distributed to the use of the county road commission for
20 highways, roads, streets, and bridges, less the amount expended
21 on urban routes for other than preservation purposes and the
22 amount expended for hard-surfacing of gravel roads on the
23 federal-aid system, on the preservation of highways, roads,
24 streets, and bridges, if that year is part of a 3-year period in
25 which at least 90% of the total federal revenue distributed in
26 the 3-year period to the use of the county road commission for
27 highways, roads, streets, and bridges, less the amount expended

1 on urban routes for other than preservation purposes and the
2 amount expended for hard-surfacing of gravel roads on the
3 federal-aid system, is expended on the preservation of highways,
4 roads, streets, and bridges. If a county road commission expends
5 in a year less than 90% of the federal revenue distributed to the
6 use of the county road commission for highways, roads, streets,
7 and bridges, less the amount expended on urban routes for other
8 than preservation purposes and the amount expended for
9 hard-surfacing of gravel roads on the federal-aid system, on the
10 preservation of highways, roads, streets, and bridges and that
11 year is not a part of a 3-year period in which at least 90% of
12 the total federal revenue distributed in the 3-year period to the
13 use of the county road commission for highways, roads, streets,
14 and bridges, less the amount expended on urban routes for other
15 than preservation purposes and the amount expended for
16 hard-surfacing of gravel roads on the federal-aid system, is
17 expended on the preservation of highways, roads, streets, and
18 bridges, the county road commission shall expend in each year
19 subsequent to the 3-year period 100%, or less in 1 year if
20 sufficient for the purposes of this subsection, of the federal
21 revenue distributed to the use of the county road commission for
22 highways, roads, streets, and bridges, less the amount expended
23 on urban routes for other than preservation purposes and the
24 amount expended for hard-surfacing of gravel roads on the
25 federal-aid system, on the preservation of highways, roads,
26 streets, and bridges until the average percentage spent on the
27 preservation of highways, roads, streets, and bridges in the

1 3-year period and the subsequent years, less the amount expended
2 on urban routes for other than preservation purposes and the
3 amount expended for hard-surfacing of gravel roads on the
4 federal-aid system, is at least 90%. A year may be included in
5 only one 3-year period for the purposes of this subsection. The
6 requirements of this subsection shall be waived if compliance
7 would cause the county road commission to be ineligible according
8 to federal law for federal revenue, but only to the extent
9 necessary to make the county road commission eligible according
10 to federal law for that revenue. For the purpose of the
11 calculations required by this subsection, the amount expended on
12 urban routes by a county road commission for other than
13 preservation purposes and the amount expended for hard-surfacing
14 of gravel roads on the federal-aid system shall be deducted from
15 the total federal revenue distributed to the use of the county
16 road commission.

17 (18) A county road commission shall certify, which
18 certification shall, for purposes of the validity of bonds and
19 notes, be conclusive as to the matters stated therein, to the
20 state transportation department on or before the issuance of any
21 bonds or notes issued after July 1, 1983, pursuant to 1943
22 PA 143, MCL 141.251 to 141.254, 1941 PA 205, MCL 252.51 to
23 252.64, or section 18c or 18d, for purposes other than the
24 preservation of highways, roads, streets, and bridges and
25 purposes other than the purposes specified in subsection (16)(c)
26 that its average annual debt service requirements for all bonds
27 and notes or portions of bonds and notes issued after July 1,

1 1983, for purposes other than the preservation of highways,
2 roads, streets, and bridges and other than for the purposes
3 specified in subsection (16)(c), including the bond or note to be
4 issued does not exceed 10% of the funds returned to the county
5 road commission pursuant to this act, less the amounts specified
6 in subsection (16)(a), (b), and (c) during the last completed
7 fiscal year of the county road commission. If the purpose for
8 which the bonds or notes are issued is changed after the issuance
9 of the notes or bonds, the change shall be made in such a manner
10 to maintain compliance with the certification required by this
11 subsection, as of the date the certificate was originally issued,
12 but ~~no~~ such **a** change shall **not** invalidate or otherwise affect
13 the bonds or notes with respect to which the certificate was
14 issued or the obligation to pay debt service on the bonds or
15 notes.

16 (19) In each charter county to which funds are returned under
17 this section, the responsibility for road improvement,
18 preservation, and traffic operation work, and the development,
19 construction, or repair of off-road parking facilities and
20 construction or repair of road lighting shall be coordinated by a
21 single administrator to be designated by the county executive who
22 shall be responsible for and shall represent the charter county
23 in transactions with the state transportation department pursuant
24 to this act.

25 (20) Not more than 10% per year of all of the funds received
26 by and returned to a county from any source for the purposes of
27 this section may be expended for administrative expenses. A

1 county that expends more than 10% for administrative expenses in
2 a year shall be subject to section 14(5) unless a waiver is
3 granted by the department of treasury. As used in this
4 subsection, "administrative expenses" means those expenses that
5 are not assigned including, but not limited to, specific road
6 construction or preservation projects and are often referred to
7 as general or supportive services. Administrative expenses shall
8 not include net equipment expense, net capital outlay, debt
9 service principal and interest, and payments to other state or
10 local offices which are assigned, but not limited to, specific
11 road construction projects or preservation activities.

12 (21) In addition to the financial compliance audits required
13 by law, the department of treasury shall conduct performance
14 audits and make investigations of the disposition of all state
15 funds received by county road commissions, county boards of
16 commissioners, or any other county governmental agency acting as
17 the county road authority, for transportation purposes to
18 determine compliance with the terms and conditions of this act.
19 Performance audits shall be conducted according to government
20 auditing standards issued by the United States general accounting
21 office. The department of treasury shall provide 6 months notice
22 to the county road commission or county board of commissioners,
23 as applicable, of the standards to be used for audits performed
24 under this subsection ~~prior to~~ **before** the fiscal year in which
25 the audit is conducted. The department shall notify the county
26 road commission or county board of commissioners of any
27 subsequent changes to the standards. County road commissions or

1 county boards of commissioners, as applicable, shall make
2 available to the department of treasury the pertinent records for
3 the audit.

4 (22) If 1 or more townships assume jurisdiction for the
5 improvement and maintenance of all or a portion of the county
6 local road system or the county primary system, or both, within
7 that township, the amount returned to a county under this section
8 for that portion of the county local road system or county
9 primary system, or both, shall be allocated to those townships in
10 the manner provided in section 20b according to the following:

11 (a) Sixty-five percent of the amount in the same proportion
12 that the total mileage in the county local road system and the
13 county primary system, if applicable, in the township bears to
14 the total mileage in the county local road system and the county
15 primary system, if applicable, of the county.

16 (b) Thirty-five percent of the amount in the same proportion
17 that the total population outside of the incorporated villages
18 and cities in the township bears to the total population outside
19 of incorporated villages and cities of the county, according to
20 the most recent statewide federal census preceding the
21 distribution.

22 (23) If a township does not assume jurisdiction over any part
23 of the county local road system or the county primary system, or
24 both, it may provide input regarding expenditure of the funds
25 allocated under subsections (4) and (5) by giving notice to the
26 county that it will submit a 3-year plan that specifies the roads
27 it desires to have repaired, maintained, or improved by the

1 county. Upon receipt of this notice from the township, the
2 county shall immediately give notice to the township of the funds
3 available for roads within that township. A township's share of
4 the funds provided for in this subsection shall be expended only
5 as directed by the township if the township has filed with the
6 county road commission before April 1 of each year a 3-year plan
7 showing the proposed projects for which the funds are to be
8 used. A township 3-year plan may provide that funds may be
9 accumulated for a period of not more than 3 years. In any year
10 that a township does not provide a plan to the county road
11 commission before April 1, the portion allocated for that year to
12 that township shall be divided among the other townships
13 submitting plans. When funds are redivided as provided in this
14 subsection, townships submitting plans may amend their plan to
15 address the additional funds. Subsection (15) does not apply to
16 a distribution of funds under this subsection. Funds distributed
17 to a county for snow removal purposes under subsection (3) are
18 not affected by this subsection.

19 Sec. 20b. (1) A township board may assume jurisdiction for
20 the improvement and maintenance of all or any part of the county
21 local road system or the county primary system, or both, within
22 that township in the manner provided by this section.

23 (2) The township board shall notify the board of county road
24 commissioners and the department of its intent to assume
25 jurisdiction before October 1 of any year. Beginning January 1
26 in the year following notification, the department shall pay to
27 that township that share of transportation funds formerly

1 allocated to the county under section 12 for those local or
2 primary roads designated by the township in the manner provided
3 in section 12(23).

4 (3) The notification to the board of county road
5 commissioners shall contain the designation of all or a portion
6 of the county local road system or county primary system, or
7 both, within that township that the township board intends to
8 assume responsibility for maintenance and improvement.

9 (4) A township may enter into agreements with other
10 townships, cities, villages, county road commissions, or the
11 commission or may contract with private entities for the
12 performance of the same services that the county road commission
13 uses its funds under section 12.

14 (5) The township shall keep separate accounts and accurate
15 and uniform records of all transportation funds, and shall file
16 with the commission on or before April 1 of each year, on forms
17 to be provided by the commission, a report showing the
18 disposition of funds received and expended for road purposes.
19 The failure of a township to use funds received from the
20 department for the purposes prescribed in this section shall
21 result in the forfeiture by the township of funds to which it may
22 have been entitled under this act for 1 year after the failure to
23 apply the money for the purposes prescribed. All funds forfeited
24 shall thereafter be returned to the department.

25 (6) If the township assumes jurisdiction under this section,
26 the township shall assume liability for failure to maintain the
27 local roads or primary roads, or both, specified in the

1 notification.