

HOUSE BILL No. 5710

May 31, 2012, Introduced by Reps. Byrum, Durhal, Switalski, Bauer and Brown 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 promote safe and efficient travel for motor vehicle drivers, bicyclists, pedestrians, and other legal users of roads, streets, and highways; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and

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

by amending sections 9a, 10c, and 20a (MCL 247.659a, 247.660c, and 247.670a), as amended by 2010 PA 257.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9a. (1) As used in this section:

2 (a) "Asset management" means an ongoing process of
3 maintaining, upgrading, and operating physical assets cost-
4 effectively, based on a continuous physical inventory and condition
5 assessment.

6 (b) "Bridge" means a structure including supports erected over
7 a depression or an obstruction, such as water, a highway, or a
8 railway, for the purposes of carrying traffic or other moving
9 loads, and having an opening measuring along the center of the
10 roadway of more than 20 feet between undercopings of abutments or
11 spring lines of arches, or extreme ends of openings for multiple
12 boxes where the clear distance between openings is less than 1/2 of
13 the smaller contiguous opening.

1 (c) "Central storage data agency" means that agency or office
2 chosen by the council where the data collected is stored and
3 maintained.

4 (d) "Council" means the transportation asset management
5 council created by this section.

6 ~~(e) "County road commission" means the board of county road~~
7 ~~commissioners elected or appointed pursuant to section 6 of chapter~~
8 ~~IV of 1909 PA 283, MCL 224.6, or, in the case of a charter county~~
9 ~~with a population of 750,000 or more with an elected county~~
10 ~~executive that does not have a board of county road commissioners,~~
11 ~~the county executive for ministerial functions and the county~~
12 ~~commission provided for in section 14(1)(d) of 1966 PA 293, MCL~~
13 ~~45.514, for legislative functions.~~

14 (E) ~~(f)~~ "Department" means the state transportation
15 department.

16 (F) ~~(g)~~ "Federal-aid eligible" means ~~any~~ **A** public road or
17 bridge that is eligible for federal aid to be spent for the
18 construction, repair, or maintenance of that road or bridge.

19 (G) ~~(h)~~ "Local road agency" means a county road commission or
20 designated county road agency or city or village that is
21 responsible for the construction or maintenance of public roads
22 within the state under this act.

23 (H) ~~(i)~~ "Multiyear program" means a compilation of road and
24 bridge projects anticipated to be contracted for by the department
25 or a local road agency during a 3-year period. The multiyear
26 program shall include a listing of each project to be funded in
27 whole or in part with state or federal funds.

1 (I) ~~(j)~~—"State planning and development regions" means those
2 agencies required by section ~~134(b)~~ **134** of title 23 of the United
3 States Code, 23 USC 134, and those agencies established by
4 Executive Directive 1968-1.

5 (2) In order to provide a coordinated, unified effort by the
6 various roadway agencies within the state, the transportation asset
7 management council is hereby created within the state
8 transportation commission and is charged with advising the
9 commission on a statewide asset management strategy and the
10 processes and necessary tools needed to implement such a strategy
11 beginning with the federal-aid eligible highway system, and once
12 completed, continuing on with the county road and municipal
13 systems, in a cost-effective, efficient manner. Nothing in this
14 section shall prohibit a local road agency from using an asset
15 management process on its non-federal-aid eligible system. The
16 council shall consist of 10 voting members appointed by the state
17 transportation commission. The council shall include 2 members from
18 the county road association of Michigan, 2 members from the
19 Michigan municipal league, 2 members from the state planning and
20 development regions, 1 member from the Michigan townships
21 association, 1 member from the Michigan association of counties,
22 and 2 members from the department. Nonvoting members shall include
23 1 person from the agency or office selected as the location for
24 central data storage. Each agency with voting rights shall submit a
25 list of 2 nominees to the state transportation commission from
26 which the appointments shall be made. The Michigan townships
27 association shall submit 1 name, and the Michigan association of

1 counties shall submit 1 name. Names shall be submitted within 30
2 days after July 3, 2002. The state transportation commission shall
3 make the appointments within 30 days after receipt of the lists.

4 (3) The positions for the department shall be permanent. The
5 position of the central data storage agency shall be nonvoting and
6 shall be for as long as the agency continues to serve as the data
7 storage repository. The member from the Michigan association of
8 counties shall be initially appointed for 2 years. The member from
9 the Michigan townships association shall be initially appointed for
10 3 years. Of the members first appointed from the county road
11 association of Michigan, the Michigan municipal league, and the
12 state planning and development regions, 1 member of each group
13 shall be appointed for 2 years and 1 member of each group shall be
14 appointed for 3 years. At the end of the initial appointment, all
15 terms shall be for 3 years. The chairperson shall be selected from
16 among the voting members of the council.

17 (4) The department shall provide qualified administrative
18 staff and the state planning and development regions shall provide
19 qualified technical assistance to the council.

20 (5) The council shall develop and present to the state
21 transportation commission for approval within 90 days after the
22 date of the first meeting ~~such~~**THE** procedures and requirements as
23 **THAT** are necessary for the administration of the asset management
24 process. ~~This~~**THE PROCEDURES AND REQUIREMENTS DEVELOPED AND**
25 **PRESENTED BY THE COUNCIL** shall, at a minimum, include the areas of
26 training, data storage and collection, reporting, development of a
27 multiyear program, budgeting and funding, and other issues related

1 to asset management. ~~that may arise from time to time.~~ All quality
2 control standards and protocols shall, at a minimum, be consistent
3 with ~~any~~ existing federal requirements and regulations and existing
4 government accounting standards.

5 (6) The council may appoint a technical advisory panel whose
6 members shall be representatives from the transportation
7 construction associations and related transportation road
8 interests. The asset management council shall select members to the
9 technical advisory panel from names submitted by the transportation
10 construction associations and related transportation road
11 interests. The technical advisory panel members shall be appointed
12 for 3 years. The asset management council shall determine the
13 research issues and assign projects to the technical advisory panel
14 to assist in the development of statewide policies. The technical
15 advisory panel's recommendations shall be advisory only and **ARE** not
16 binding on the asset management council.

17 (7) The department, each county road commission, and each city
18 and village of this state shall annually submit a report to the
19 transportation asset management council. This report shall include
20 a multiyear program developed through the asset management process
21 described in this section. Projects contained in the department's
22 annual multiyear program shall be consistent with the department's
23 asset management process and shall be reported consistent with
24 categories established by the transportation asset management
25 council. Projects contained in the annual multiyear program of each
26 local road agency shall be consistent with the asset management
27 process of each local road agency and shall be reported consistent

1 with categories established by the transportation asset management
2 council.

3 (8) Funding necessary to support the activities described in
4 this section shall be provided by an annual appropriation from the
5 Michigan transportation fund to the state transportation
6 commission.

7 (9) The department and each local road agency shall keep
8 accurate and uniform records on all road and bridge work performed
9 and funds expended for the purposes of this section, according to
10 the procedures developed by the council. Each local road agency and
11 the department shall annually report to the council the mileage and
12 condition of the road and bridge system under their jurisdiction
13 and the receipts and disbursements of road and street funds in the
14 manner prescribed by the council, which shall be consistent with
15 any current accounting procedures. An annual report shall be
16 prepared by the staff assigned to the council regarding the results
17 of activities conducted during the preceding year and the
18 expenditure of funds related to the processes and activities
19 identified by the council. The report shall also include an
20 overview of the activities identified for the succeeding year. The
21 council shall submit this report to the state transportation
22 commission, the legislature, and the transportation committees of
23 the house and senate by May 2 of each year.

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

25 (a) "Urban or rural area" means a contiguous developed area,
26 including the immediate surrounding area, where transportation
27 services should reasonably be provided presently or in the future;

1 the area within the jurisdiction of an eligible authority; or for
2 the purpose of receiving funds for public transportation, a
3 contiguous developed area having a population of less than 50,000
4 that has an urban public transportation program approved by the
5 ~~state transportation department~~ and for which the state
6 transportation commission determines that public transportation
7 services should reasonably be provided presently or in the future.

8 (b) "Eligible authority" means an authority organized under
9 the metropolitan transportation authorities act of 1967, 1967 PA
10 204, MCL 124.401 to 124.426.

11 (c) "Eligible governmental agency" means a county, city, or
12 village or an authority created under 1963 PA 55, MCL 124.351 to
13 124.359; the urban cooperation act of 1967, 1967 (Ex Sess) PA 7,
14 MCL 124.501 to 124.512; 1967 (Ex Sess) PA 8, MCL 124.531 to
15 124.536; 1951 PA 35, MCL 124.1 to 124.13; the public transportation
16 authority act, 1986 PA 196, MCL 124.451 to 124.479; or the revenue
17 bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

18 (d) "Transit vehicle" means a bus, rapid transit vehicle,
19 railroad car, street railway car, water vehicle, taxicab, or other
20 type of public transportation vehicle or individual unit, whether
21 operated singly or in a group ~~which~~ **THAT** provides public
22 transportation.

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

26 (f) "Demand actuated vehicle" means a bus or smaller transit
27 vehicle operated for **THE PURPOSE OF** providing group rides to

1 members of the general public paying fares individually, and on
2 demand rather than in regularly scheduled route service.

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

5 (h) "Public transportation", "comprehensive transportation",
6 "public transportation service", "comprehensive transportation
7 service", "public transportation purpose", or "comprehensive
8 transportation purpose" means the movement of people and goods by
9 publicly or privately owned water vehicle, bus, railroad car,
10 street railway, aircraft, rapid transit vehicle, taxicab, or other
11 conveyance ~~which~~**THAT** provides general or special service to the
12 public, but not including charter or sightseeing service or
13 transportation ~~which~~**THAT** is exclusively for school purposes.
14 Public transportation, public transportation services, or public
15 transportation purposes; and comprehensive transportation,
16 comprehensive transportation services, or comprehensive
17 transportation purposes as defined in this subdivision are ~~declared~~
18 ~~by law to be~~ transportation purposes within the meaning of section
19 9 of article IX of the state constitution of 1963.

20 (i) "State transportation commission" means the state
21 transportation commission established in section 28 of article V of
22 the state constitution of 1963.

23 (j) "Governmental unit" means the ~~state transportation~~
24 department, the state transportation commission, a county road
25 commission, a city, or a village.

26 (k) "Department" or "department of transportation" means the
27 state transportation department, the principal department of state

1 government created under section 350 of the executive organization
2 act of 1965, 1965 PA 380, MCL 16.450.

3 (l) "Preservation" means an activity undertaken to preserve the
4 integrity of the existing roadway system. Preservation does not
5 include new construction of highways, roads, streets, or bridges, a
6 project that increases the capacity of a highway facility to
7 accommodate that part of traffic having neither an origin nor
8 destination within the local area, widening of a lane width or
9 more, or adding turn lanes of more than 1/2 mile in length.

10 Preservation includes, but is not limited to, 1 or more of the
11 following:

12 (i) Maintenance.

13 (ii) Capital preventive treatments.

14 (iii) Safety projects.

15 (iv) Reconstruction.

16 (v) Resurfacing.

17 (vi) Restoration.

18 (vii) Rehabilitation.

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

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

21 (x) Modernizing intersections.

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

23 (xii) Installing traffic signs in new locations, installing
24 signal devices in new locations, and replacing existing signal
25 devices.

26 (m) "Maintenance" means routine maintenance or preventive
27 maintenance, or both. Maintenance does not include capital

1 preventive treatments, resurfacing, reconstruction, restoration,
2 rehabilitation, safety projects, widening of less than 1 lane
3 width, adding auxiliary turn lanes of 1/2 mile or less, adding
4 auxiliary weaving, climbing, or speed-change lanes, modernizing
5 intersections, or the upgrading of aggregate surface roads to hard
6 surface roads. Maintenance of state trunk line highways does not
7 include streetlighting except for freeway lighting for traffic
8 safety purposes.

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

13 (i) Snow and ice removal.

14 (ii) Pothole patching.

15 (iii) Unplugging drain facilities.

16 (iv) Replacing damaged sign and pavement markings.

17 (v) Replacing damaged guardrails.

18 (vi) Repairing storm damage.

19 (vii) Repair or operation of traffic signs and signal systems.

20 (viii) Emergency environmental cleanup.

21 (ix) Emergency repairs.

22 (x) Emergency management of road closures that result from
23 uncontrollable events.

24 (xi) Cleaning streets and associated drainage.

25 (xii) Mowing roadside.

26 (xiii) Control of roadside brush and vegetation.

27 (xiv) Cleaning roadside.

1 (xv) Repairing lighting.

2 (xvi) Grading.

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

9 (i) Pavement crack sealing.

10 (ii) Micro surfacing.

11 (iii) Chip sealing.

12 (iv) Concrete joint resealing.

13 (v) Concrete joint repair.

14 (vi) Filling shallow pavement cracks.

15 (vii) Patching concrete.

16 (viii) Shoulder resurfacing.

17 (ix) Concrete diamond grinding.

18 (x) Dowel bar retrofit.

19 (xi) Bituminous overlays of 1-1/2 inches or less in thickness.

20 (xii) Restoration of drainage.

21 (xiii) Bridge crack sealing.

22 (xiv) Bridge joint repair.

23 (xv) Bridge seismic retrofit.

24 (xvi) Bridge scour countermeasures.

25 (xvii) Bridge painting.

26 (xviii) Pollution prevention.

27 (xix) New treatments as they may be developed.

1 (p) "County road commission" means the board of county road
2 commissioners elected or appointed pursuant to section 6 of chapter
3 IV of 1909 PA 283, MCL 224.6, or, in the case of a charter county
4 with a population of 750,000 or more with an elected county
5 executive that does not have a board of county road commissioners,
6 the county executive for ministerial functions and the county
7 commission provided for in section 14(1)(d) of 1966 PA 293, MCL
8 45.514, for legislative functions. **IF A BOARD OF COUNTY ROAD**
9 **COMMISSIONERS OF A COUNTY IS DISSOLVED UNDER SECTION 6 OF CHAPTER**
10 **IV OF 1909 PA 283, MCL 224.6, COUNTY ROAD COMMISSION INCLUDES THE**
11 **COUNTY BOARD OF COMMISSIONERS OF THAT COUNTY.**

12 (q) "Capital preventive treatments" means any preventive
13 maintenance category project on state trunk line highways that
14 qualifies under the department's capital preventive maintenance
15 program.

16 Sec. 20a. A board of county road commissioners in a county and
17 the township board of a township ~~having~~ **WITH** a population of ~~not~~
18 ~~less than 15,000 , as determined by the most recent statewide~~
19 ~~federal census,~~ **OR MORE**, and which in the prior year and the
20 contract year will have levied a property tax of not less than 1
21 mill on each dollar of assessed valuation of the township for the
22 improvement or preservation of county roads within the township,
23 may exercise the provisions of this section only by entering into a
24 written contract of not more than 1 year providing for the
25 preservation by the township of all or any part of the county local
26 road system within that township, subject to, ~~but not limited to,~~
27 **AT A MINIMUM**, the following conditions:

1 (a) The contract shall specify the total amount of money that
2 shall be annually expended by the contracting township for the
3 preservation of **ALL OR PART OF** the local road system. ~~or part~~
4 ~~thereof.~~ The contracting road commission may pay not more than 90%
5 of the amount specified in the contract to the contracting township
6 annually. The contracting road commission shall not pay more than
7 66% of an amount equal to the average annual amount of funds
8 expended by the county road commission on the local road system
9 located within the contracting township for construction and
10 preservation purposes over the previous 5-year period from local
11 road funds received by the county under this act. ~~Any~~ **THE**
12 **CONTRACTING TOWNSHIP SHALL MATCH ANY** funds expended by the
13 contracting road commission on the local road system located within
14 the contracting township in excess of 66%. ~~shall be matched by the~~
15 ~~contracting township.~~ The amount paid **TO** the contracting township
16 shall not directly or indirectly include money transferred from the
17 primary fund allocation to the county ~~as set forth in~~ **UNDER** section
18 12(8).

19 (b) The contracting township shall keep separate accounts and
20 accurate and uniform records on all road preservation work and
21 funds, and shall file with the state transportation commission and
22 the contracting county road commission on or before April 1 of each
23 year, on forms ~~to be~~ provided by the state transportation
24 commission, a report showing the disposition of funds received and
25 expended for road purposes.

26 (c) The contract shall require the contracting township to
27 provide insurance covering the contracting road commission's

1 liability for failure to preserve the local roads specified in the
2 contract.

3 (d) The contracting road commission shall determine and
4 specify the equipment and personnel necessary to provide the
5 preservation as set forth in the contract, and the contract shall
6 not take effect until the contracting township has acquired the
7 necessary equipment and personnel specified in the contract.

8 (e) As used in this section, +

9 ~~(i) "County road commission" means the board of county road~~
10 ~~commissioners elected or appointed pursuant to section 6 of chapter~~
11 ~~IV of 1909 PA 283, MCL 224.6, or, in the case of a charter county~~
12 ~~with a population of 750,000 or more with an elected county~~
13 ~~executive that does not have a board of county road commissioners,~~
14 ~~the county executive for ministerial functions and the county~~
15 ~~commission provided for in section 14(1)(d) of 1966 PA 293, MCL~~
16 ~~45.514, for legislative functions.~~

17 ~~(ii) "Preservation"~~ **"PRESERVATION"** means that term as defined
18 in section 10c unless the contracting parties specify a different
19 meaning in the contract.