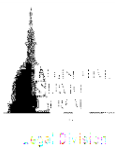


# HOUSE BILL NO. 4969

September 12, 2019, Introduced by Reps. Yancey, Mueller, Bellino, Sneller, Miller, O'Malley, Howell, Eisen, Meerman, Sheppard and Afendoulis 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



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truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, local bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts,"

by amending section 11c (MCL 247.661c), as amended by 2015 PA 182.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1           Sec. 11c. (1) ~~All~~**Through September 30, 2019, all** construction
- 2 projects of the department concerning highways, streets, roads, and
- 3 bridges, whose cost exceeds \$100,000.00 for construction or
- 4 preservation as defined in section 10c, ~~shall~~**must** be performed by
- 5 contract awarded by competitive bidding unless the department



1 affirmatively finds that under the circumstances relating to those  
2 projects, some other method is in the public interest. The director  
3 of the department shall report his or her findings to the state  
4 transportation commission 90 days before work is commenced and  
5 promptly in writing to the appropriations committees of the senate  
6 and house of representatives. However, in a case in which the  
7 department determines emergency action is required, the reports  
8 need not be filed before a contract is awarded but ~~shall~~**must** be  
9 promptly filed.

10 (2) ~~All Through September 30, 2019, all~~ construction projects  
11 of a local road agency whose costs exceed \$100,000.00 for  
12 construction or preservation, excluding maintenance, ~~shall~~**must** be  
13 performed by contract awarded by competitive bidding unless the  
14 local road agency affirmatively finds that under the circumstances  
15 relating to those projects, some other method is in the public  
16 interest. Installation or upgrading of advanced traffic management  
17 and signals is exempt from this subsection. A county road  
18 commission shall report its findings before work is commenced in  
19 writing to the county board of commissioners of that county. A city  
20 or village shall report its findings before work is commenced in  
21 writing to the governing elected body of that city or village. ~~As~~  
22 ~~used in this subsection, "local road agency" means that term as~~  
23 ~~defined in section 9a.~~

24 (3) **Beginning October 1, 2019, the department and all local**  
25 **road agencies may award road construction contracts described in**  
26 **subsections (1) and (2) to the responsive and responsible best**  
27 **value bidder as determined by the department, or to the most**  
28 **responsive low bidder.**

29 (4) **Notwithstanding the provisions of subsections (1), (2),**



1 and (3), the department or a local road agency may, in an  
2 emergency, conduct construction and preservation projects on  
3 highways, streets, roads, bridges, or local roads. As used in this  
4 subsection, "an emergency" means a condition of the highway,  
5 street, road, bridge, or local road that presents a significant  
6 risk to the health or welfare of the people of this state.

7 (5) Beginning January 1, 2020, the department or a local road  
8 agency shall not enter into a contract, described in subsection  
9 (1), (2), or (3), that restricts the days, except for Memorial Day,  
10 July 4, and Labor Day, during which a construction or preservation  
11 project shall be conducted. However, the department shall encourage  
12 contractors to begin construction or preservation projects as early  
13 in the year as the weather allows and end as late as the weather  
14 allows.

15 (6) The department or a local road agency shall ensure that  
16 all bid solicitations for construction projects, under subsection  
17 (1), (2), or (3) are made public through advertisement, mail, or  
18 other acceptable means of communication not later than the last  
19 quarter of the fiscal year immediately preceding the fiscal year in  
20 which the construction project is to be performed.

21 (7) As used in this section:

22 (a) "Local road agency" means that term as defined in section  
23 9a.

24 (b) "Responsive and responsible best value bidder" means a  
25 bidder who meets all of the following:

26 (i) A bidder who complies with all bid specifications and  
27 requirements.

28 (ii) A bidder who has been determined by the department to be  
29 responsible by the following criteria:



- 1 (A) The bidder's financial resources.
- 2 (B) The bidder's technical capabilities.
- 3 (C) The bidder's professional experience.
- 4 (D) The bidder's past performance.
- 5 (E) The bidder's insurance and bonding capacity.
- 6 (F) The bidder's business integrity.

7 (iii) A bidder who has been selected by the department through a  
8 selection process that evaluates the bid on both price and  
9 qualitative components to determine what is the best value for this  
10 state. Qualitative components may include, but are not limited to,  
11 all of the following:

- 12 (A) Technical design.
- 13 (B) Technical approach.
- 14 (C) Quality of proposed personnel.
- 15 (D) Management plans.

