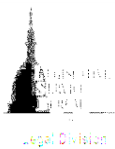


HOUSE BILL NO. 4971

September 12, 2019, Introduced by Reps. Alexander, Mueller, Miller, O'Malley, Meerman and Sheppard 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 9a (MCL 247.659a), as amended by 2018 PA 325.

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, preserving, upgrading, and operating physical assets
- 4 cost-effectively, based on a continuous physical inventory and
- 5 condition assessment and investment to achieve established



1 performance goals.

2 (b) "Asset management plan" means a plan created by the
3 department and approved by the state transportation commission or a
4 plan created by a local road agency and approved by the local road
5 agency's governing body that includes provisions for asset
6 inventory, performance goals, risk of failure analysis, anticipated
7 revenues and expenses, performance outcomes, and coordination with
8 other infrastructure owners.

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

17 (d) "Central storage data agency" means an agency or office
18 chosen by the council where the data collected is stored and
19 maintained.

20 (e) "Department" means the state transportation department.

21 (f) "Federal-aid eligible" means a public road or bridge that
22 is eligible for federal aid to be spent for the construction,
23 repair, or maintenance of that road or bridge.

24 (g) "Local road agency" means a county road commission or
25 designated county road agency or city or village that is
26 responsible for the construction or maintenance of public roads
27 within the state under this act.

28 (h) "Michigan infrastructure council" means the Michigan
29 infrastructure council created in section 3 of the Michigan



1 infrastructure council act, **2018 PA 323, MCL 21.603.**

2 (i) "Multiyear program" means a compilation of road and bridge
3 projects anticipated to be contracted for by the department or a
4 local road agency during a 3-year period. The multiyear program
5 ~~shall~~**must** include a listing of each project to be funded in whole
6 or in part with state or federal funds.

7 (j) "Region" means the geographic jurisdiction of any of the
8 following:

9 (i) A regional planning commission created under 1945 PA 281,
10 MCL 125.11 to 125.25.

11 (ii) A regional economic development commission created under
12 1966 PA 46, MCL 125.1231 to 125.1237.

13 (iii) A metropolitan area council formed under the metropolitan
14 councils act, 1989 PA 292, MCL 124.651 to 124.729.

15 (iv) A Michigan metropolitan planning organization established
16 under the moving ahead for progress in the 21st century act, Public
17 Law 112-141.

18 (v) An agency directed and funded by section 822f of 2016 PA
19 268, to engage in joint decision-making practices related to, but
20 not limited to, community development, economic development,
21 talent, and infrastructure opportunities.

22 (k) "State planning and development regions" means those
23 agencies required by 23 USC 134, and those agencies established by
24 Executive Directive 1968-1.

25 (l) "Water asset management council" means the water asset
26 management council created in section 5002 of the natural resources
27 and environmental protection act, 1994 PA 451, MCL 324.5002.

28 (2) In order to provide a coordinated, unified effort by the
29 various road agencies within this state, the transportation asset



1 management council is hereby created within the state
 2 transportation commission. ~~Upon~~**On** creation of the Michigan
 3 infrastructure council, the transportation asset management council
 4 shall be placed within the Michigan infrastructure council.

5 (3) The transportation asset management council shall advise
 6 the Michigan infrastructure council on a statewide transportation
 7 asset management strategy and the processes and tools needed to
 8 implement that strategy, beginning with the federal-aid eligible
 9 highway system and infrastructure assets that impact system
 10 performance, safety, or risk management, including signals and
 11 culverts. This section does not prohibit a local road agency from
 12 using an asset management process on its non-federal-aid eligible
 13 system.

14 (4) The transportation asset management council shall consist
 15 of 10 voting members appointed by the state transportation
 16 commission. The transportation asset management council shall
 17 include 2 members from the County Road Association of Michigan, 2
 18 members from the Michigan Municipal League, 2 members from the
 19 state planning and development regions, 1 member from the Michigan
 20 Townships Association, 1 member from the Michigan Association of
 21 Counties, and 2 members from the department. Nonvoting members
 22 shall include 1 person from the agency or office selected as the
 23 location for central data storage. Each agency with voting rights
 24 shall submit a list of 2 nominees to the state transportation
 25 commission from which the appointments shall be made. The Michigan
 26 Townships Association shall submit 1 name, and the Michigan
 27 Association of Counties shall submit 1 name. Names ~~shall~~**must** be
 28 submitted within 30 days after July 3, 2002. The state
 29 transportation commission shall make the appointments within 30



1 days after receipt of the lists.

2 (5) The positions for the department on the transportation
3 asset management council ~~shall~~**must** be permanent. The position of
4 the central data storage agency ~~shall~~**must** be nonvoting and ~~shall~~
5 **must** be for as long as the agency continues to serve as the data
6 storage repository. The member from the Michigan Association of
7 Counties shall be initially appointed for 2 years. The member from
8 the Michigan Townships Association shall be initially appointed for
9 3 years. Of the members first appointed from the County Road
10 Association of Michigan, the Michigan Municipal League, and the
11 state planning and development regions, 1 member of each group
12 shall be appointed for 2 years and 1 member of each group shall be
13 appointed for 3 years. At the end of the initial appointment, all
14 terms ~~shall~~**must** be for 3 years. The chairperson shall be selected
15 from among the voting members of the transportation asset
16 management council. A member of the transportation asset management
17 council may be removed for incompetence, dereliction of duty,
18 malfeasance during his or her tenure in office, or any other cause
19 considered appropriate by the Michigan infrastructure council. The
20 Michigan infrastructure council shall consult with the
21 transportation asset management council before removing a member of
22 the transportation asset management council under this subsection.

23 (6) The department shall provide qualified administrative
24 staff and the state planning and development regions shall provide
25 qualified technical assistance to the transportation asset
26 management council.

27 (7) The transportation asset management council may appoint an
28 advisory committee whose members shall serve as needed to provide
29 research on issues and projects as determined by the transportation



1 asset management council. An advisory committee member who is not a
2 member of the transportation asset management council does not have
3 voting rights on the advisory committee. A recommendation from the
4 advisory committee appointed under this subsection is advisory only
5 and is not binding.

6 (8) Except as otherwise provided in this subsection, costs
7 incurred for data collection, analysis, or submittal, other than
8 costs covered by the council for the federal-aid eligible highway
9 system, are the responsibility of the owner of the data. A local
10 road agency may request planning region assistance or reimbursement
11 for data collected on non-federal-aid eligible roads or streets
12 within that region. The region shall determine where to collect
13 local road or street data to expend its remaining data collection
14 money based ~~upon~~ **on** requests received from local road agencies.

15 (9) The transportation asset management council shall promote
16 and oversee the implementation of recommendations from the regional
17 infrastructure asset management pilot program on a statewide level
18 as the program relates to roads, bridges, and related
19 transportation infrastructure.

20 (10) No later than October 1, 2019, the transportation asset
21 management council shall develop a template for an asset management
22 plan for use by local road agencies responsible for 100 or more
23 certified miles of road and require its submission to the
24 transportation asset management council as provided in subsection
25 (12). No later than October 1, 2019, the transportation asset
26 management council shall establish a schedule for the submission of
27 asset management plans by local road agencies described in
28 subsection (11)(b) that ensures that 1/3 of those local road
29 agencies submit an asset management plan each year. The template



1 required by this subsection ~~shall~~**must** include, but is not limited
2 to, all of the following:

3 (a) Asset inventory, including the location, material, size,
4 and condition of the assets, in a format that allows for and
5 encourages digital mapping. All standards and protocols for assets
6 ~~shall~~**must** be consistent with government accounting standards.
7 Standards and protocols for assets that are eligible for federal
8 aid ~~shall~~**must** be consistent with federal requirements and
9 regulations.

10 (b) Performance goals, including the desired condition and
11 performance of the assets, which ~~shall~~**must** be set by the local
12 road agency. Performance goals may vary among asset classes under
13 the local road agency's jurisdiction. If a local road agency has
14 jurisdiction over roads or bridges that are designated as part of
15 the federal National Highway System, performance goals for that
16 portion of the system ~~shall~~**must** be consistent with established
17 federal performance targets.

18 (c) Risk of failure analysis, including the identification of
19 the probability and criticality of a failure of the most critical
20 assets and any contingency plans.

21 (d) Anticipated revenues and expenses, including a description
22 of all revenue sources and anticipated receipts for the period
23 covered by the asset management plan and expected infrastructure
24 repair and replacement expenditures, including planned improvements
25 and capital reconstruction.

26 (e) Performance outcomes, including a determination of how the
27 local road agency's investment strategy will achieve the desired
28 levels of service and performance goals and the steps necessary to
29 ensure asset conditions meet or achieve stated goals and a



1 description and explanation of any gap between achievable condition
2 and performance through the investment strategy and desired goals.

3 (f) A description of any plans of the asset owner to
4 coordinate with other entities, including neighboring jurisdictions
5 and utilities, to minimize duplication of effort regarding
6 infrastructure preservation and maintenance.

7 (g) Proof of acceptance, certification, or adoption by the
8 local road agency's governing body.

9 (h) **If the local road agency plans to increase traffic**
10 **capacity or lane expansion, the local road agency must complete an**
11 **engineering and safety study as described in section 627 of the**
12 **Michigan vehicle code, 1949 PA 300, MCL 257.627 and submit a copy**
13 **of that study as part of its asset management plan. A local road**
14 **agency shall not engage in lane expansion unless approved by the**
15 **transportation asset management council.**

16 (11) The department, each county road commission, and each
17 city and village of this state shall annually submit a report on
18 infrastructure conditions and investment to the transportation
19 asset management council. This report ~~shall~~**must** include a
20 multiyear program developed through the asset management process
21 described in this section. No later than October 1, 2019, the
22 transportation asset management council shall establish a schedule
23 for the submission by the department of the report required by this
24 subsection. All of the following apply to a multiyear program
25 required by this subsection:

26 (a) Projects contained in the department's annual multiyear
27 program ~~shall~~**must** be consistent with the department's asset
28 management process and asset management plan, and ~~shall~~**must** be
29 reported consistent with categories established by the



1 transportation asset management council.

2 (b) Projects contained in the annual multiyear program of each
3 local road agency responsible for 100 or more certified miles of
4 road ~~shall~~**must** be consistent with the asset management process and
5 asset management plan of that local road agency and ~~shall~~**must** be
6 reported consistent with categories established by the
7 transportation asset management council.

8 (c) Projects contained in the annual multiyear program of each
9 local road agency responsible for less than 100 certified miles of
10 road ~~shall~~**must** be consistent with the asset management process of
11 that local road agency and ~~shall~~**must** be reported consistent with
12 categories established by the transportation asset management
13 council. **The transportation asset management council shall maintain**
14 **records of local road agencies responsible for less than 100**
15 **certified miles of road who have submitted an asset management**
16 **plan.**

17 (12) Beginning October 1, 2020, each local road agency
18 described in subsection (11)(b) shall begin submitting an asset
19 management plan to the transportation asset management council
20 according to the 3-year schedule described in subsection (10). The
21 asset management plan ~~shall~~**must** cover a period of at least 3
22 years, and ~~shall~~**must** be consistent with a template provided by the
23 transportation asset management council. A local road agency that
24 is required to submit an asset management plan under this
25 subsection that has not submitted the asset management plan by
26 October 1, 2024 is not in compliance with this subsection. ~~A~~**The**
27 **transportation asset management council shall notify a** local road
28 agency that is not in compliance with this subsection ~~shall be~~
29 ~~notified by the transportation asset management council that the~~



1 local road agency ~~shall~~**must** comply with this subsection within 120
2 days of the notice. If a local road agency fails to comply with
3 this subsection after 120 days of the notice required by this
4 subsection, the transportation asset management council shall
5 notify the department of the noncompliance and the department may
6 withhold funds distributed to the local road agency under this act.
7 The department shall release any funds withheld for noncompliance
8 with this subsection to the local road agency in the following
9 month's allocation after compliance is verified.

10 **(13) Beginning October 1, 2020, each year the transportation**
11 **asset management council shall review the asset management plans**
12 **submitted by a local road agency under this section and select up**
13 **to 15% of the local road system that can be modified or right-sized**
14 **to address transportation infrastructure needs in the region. The**
15 **transportation asset management council shall work with local road**
16 **agencies in reviewing and analyzing which local roads shall be**
17 **right-sized and how that is to be accomplished. Based on the review**
18 **of the transportation asset management council, the local road**
19 **agency shall modify its asset management plan accordingly. As used**
20 **in this subsection, "right-sized" means to decrease, increase, or**
21 **combine lanes of a road to improve safety, and provide space for**
22 **all modes of travel.**

23 **(14) ~~(13)~~**The transportation asset management council shall
24 review an asset management plan submitted under subsection (12) no
25 later than 6 months after receipt of the asset management plan. The
26 transportation asset management council shall compare the asset
27 management plan to the minimum requirements of this act and the
28 template created by the transportation asset management council,
29 and determine whether the asset management plan is in compliance



1 with those standards. If the asset management plan does not meet
 2 those standards, the transportation asset management council shall
 3 seek concurrence from the department that the asset management plan
 4 does not meet the transportation asset management council's
 5 standards. If the department concurs, the transportation asset
 6 management council shall require the local road agency to revise
 7 its asset management plan to conform to the standards within 6
 8 months after notifying the local road agency that the asset
 9 management plan does not meet the transportation asset management
 10 council's standards. The transportation asset management council
 11 shall provide an opportunity for a noncompliant local road agency
 12 to appear before the transportation asset management council to
 13 discuss the reasons the local road agency's plan is not in
 14 compliance and ways for the local road agency to become compliant.
 15 **If a local road agency's asset management plan is determined to be**
 16 **out of compliance, the local road agency's asset management plan is**
 17 **disapproved for the purposes of section 12 and 13.**

18 (15) ~~(14)~~ Beginning October 1, 2025, if the transportation
 19 asset management council determines, and the department concurs,
 20 that a local road agency described in subsection (11) (b) has not
 21 demonstrated progress toward achieving the condition goals
 22 described in its asset management plan for its federal-aid eligible
 23 county primary road system or city major street system, as
 24 applicable, the transportation asset management council shall
 25 provide notice to the local road agency of the reasons that it has
 26 determined progress is not being made and recommendations on how to
 27 make progress toward the local road agency's condition goals. The
 28 local road agency shall become compliant within 6 months after
 29 receiving the notification required by this subsection. The



1 transportation asset management council shall provide an
 2 opportunity for the noncompliant local road agency to appear before
 3 the transportation asset management council to discuss the reasons
 4 the local road agency is not compliant and ways for the local road
 5 agency to become compliant. If the local road agency is not
 6 compliant within 6 months after receiving the notification required
 7 by this subsection, the local road agency shall not shift funds
 8 distributed to it under this act from a county primary road system
 9 to a county local road system or from a city major street system to
 10 a city local street system, as applicable. ~~Upon~~**On** demonstration of
 11 progress toward achieving its condition goals, a local road agency
 12 may shift funds distributed to it under this act from a county
 13 primary road system to a county local road system or from a city
 14 major street system to a city local street system, as applicable. A
 15 local road agency may submit a revised asset management plan to the
 16 transportation asset management council.

17 **(16)** ~~(15) An annual report shall be prepared by the~~**The** staff
 18 assigned to the transportation asset management council **shall**
 19 **prepare an annual report** regarding the results of activities
 20 conducted during the preceding year and the expenditure of funds
 21 related to the processes and activities identified by the Michigan
 22 infrastructure council. The report ~~shall~~**must** also include a
 23 summary analysis of the asset management plans and annual reports
 24 received from local road agencies, a determination of how
 25 investments are achieving desired levels of service and performance
 26 goals, an identification of any additional steps that may be needed
 27 to achieve desired levels of service and performance goals, and an
 28 overview of the activities identified for the succeeding year. The
 29 transportation asset management council shall submit this report to



1 the Michigan infrastructure council, the state transportation
2 commission, **each house of** the legislature, and the transportation
3 committees of the house and senate by May 2 of each year.

4 **(17)** ~~(16)~~—Funding necessary to support the activities
5 described in this section ~~shall~~**must** be provided by an annual
6 appropriation from the Michigan transportation fund to the state
7 transportation commission. Beginning on ~~the effective date of the~~
8 ~~amendatory act that amended this subsection,~~ **September 30, 2018,**
9 the annual appropriation provided for in this subsection ~~shall~~**must**
10 be allocated to the Michigan infrastructure council and ~~shall~~**must**
11 be used to support the activities described in this section.

12 **(18)** ~~(17)~~—The department and each local road agency shall keep
13 accurate and uniform records on all road and bridge work performed
14 and funds expended for the purposes of this section, according to
15 the procedures developed by the transportation asset management
16 council. Each local road agency and the department shall annually
17 report to the transportation asset management council the mileage
18 and condition of the road and bridge system under their
19 jurisdiction and the receipts and disbursements of road and street
20 funds in the manner prescribed by the transportation asset
21 management council, which shall be consistent with any current
22 accounting procedures.

23 **(19)** ~~(18)~~—A local road agency may seek and use federal grants
24 or loans to achieve the goals and manage the asset inventory
25 described in its asset management plan.

