

Act No. 164
Public Acts of 2020
Approved by the Governor
September 17, 2020
Filed with the Secretary of State
September 17, 2020
EFFECTIVE DATE: September 17, 2020

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Reps. Alexander, Mueller, Miller, O'Malley, Meerman and Sheppard

ENROLLED HOUSE BILL No. 4971

AN ACT 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; to investigate and study the tolling of roads, streets, highways, or bridges; 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:

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

(a) "Asset management" means an ongoing process of maintaining, preserving, upgrading, and operating physical assets cost-effectively, based on a continuous physical inventory and condition assessment and investment to achieve established performance goals.

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

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

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

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

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

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

(h) "Michigan infrastructure council" means the Michigan infrastructure council created in section 3 of the Michigan infrastructure council act, 2018 PA 323, MCL 21.603.

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

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

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

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

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

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

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

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

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

(2) In order to provide a coordinated, unified effort by the various road agencies within this state, the transportation asset management council is hereby created within the state transportation commission. On creation of the Michigan infrastructure council, the transportation asset management council shall be placed within the Michigan infrastructure council.

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

(4) The transportation asset management council shall consist of 10 voting members appointed by the state transportation commission. The transportation asset management council shall include 2 members from the County Road Association of Michigan, 2 members from the Michigan Municipal League, 2 members from the state planning and development regions, 1 member from the Michigan Townships Association, 1 member from the Michigan Association of Counties, and 2 members from the department. Nonvoting members shall include 1 person from the agency or office selected as the location for central data storage. Each agency with voting rights shall submit a list of 2 nominees to the state transportation commission from which the appointments shall be made. The Michigan Townships Association shall submit 1 name, and the Michigan Association of Counties shall submit 1 name. Names must be submitted within 30 days after July 3, 2002. The state transportation commission shall make the appointments within 30 days after receipt of the lists.

(5) The positions for the department on the transportation asset management council must be permanent. The position of the central data storage agency must be nonvoting and must be for as long as the agency continues to

serve as the data storage repository. The member from the Michigan Association of Counties shall be initially appointed for 2 years. The member from the Michigan Townships Association shall be initially appointed for 3 years. Of the members first appointed from the County Road Association of Michigan, the Michigan Municipal League, and the state planning and development regions, 1 member of each group shall be appointed for 2 years and 1 member of each group shall be appointed for 3 years. At the end of the initial appointment, all terms must be for 3 years. The chairperson shall be selected from among the voting members of the transportation asset management council. A member of the transportation asset management council may be removed for incompetence, dereliction of duty, malfeasance during his or her tenure in office, or any other cause considered appropriate by the Michigan infrastructure council. The Michigan infrastructure council shall consult with the transportation asset management council before removing a member of the transportation asset management council under this subsection.

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

(7) The transportation asset management council may appoint an advisory committee whose members shall serve as needed to provide research on issues and projects as determined by the transportation asset management council. An advisory committee member who is not a member of the transportation asset management council does not have voting rights on the advisory committee. A recommendation from the advisory committee appointed under this subsection is advisory only and is not binding.

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

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

(10) No later than October 1, 2019, the transportation asset management council shall develop a template for an asset management plan for use by local road agencies responsible for 100 or more certified miles of road and require its submission to the transportation asset management council as provided in subsection (12). No later than October 1, 2019, the transportation asset management council shall establish a schedule for the submission of asset management plans by local road agencies described in subsection (11)(b) that ensures that 1/3 of those local road agencies submit an asset management plan each year. The template required by this subsection must include, but is not limited to, all of the following:

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

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

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

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

(e) Performance outcomes, including a determination of how the local road agency's investment strategy will achieve the desired levels of service and performance goals and the steps necessary to ensure asset conditions meet or achieve stated goals and a description and explanation of any gap between achievable condition and performance through the investment strategy and desired goals.

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

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

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

(a) Projects contained in the department's annual multiyear program must be consistent with the department's asset management process and asset management plan, and must be reported consistent with categories established by the transportation asset management council.

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

(c) Projects contained in the annual multiyear program of each local road agency responsible for less than 100 certified miles of road must be consistent with the asset management process of that local road agency and must be reported consistent with categories established by the transportation asset management council.

(12) Beginning October 1, 2020, each local road agency described in subsection (11)(b) shall begin submitting an asset management plan to the transportation asset management council according to the 3-year schedule described in subsection (10). The asset management plan must cover a period of at least 3 years, and must be consistent with a template provided by the transportation asset management council. A local road agency that is required to submit an asset management plan under this subsection that has not submitted the asset management plan by October 1, 2024 is not in compliance with this subsection. The transportation asset management council shall notify a local road agency that is not in compliance with this subsection that the local road agency must comply with this subsection within 120 days of the notice. If a local road agency fails to comply with this subsection after 120 days of the notice required by this subsection, the transportation asset management council shall notify the department of the noncompliance and the department may withhold funds distributed to the local road agency under this act. The department shall release any funds withheld for noncompliance with this subsection to the local road agency in the following month's allocation after compliance is verified.

(13) If a local road agency responsible for less than 100 certified miles of road submits an asset management plan to the transportation asset management council, the plan is considered approved on submission.

(14) The transportation asset management council shall review an asset management plan submitted under subsection (12) no later than 6 months after receipt of the asset management plan. The transportation asset management council shall compare the asset management plan to the minimum requirements of this act and the template created by the transportation asset management council, and determine whether the asset management plan is in compliance with those standards. If the asset management plan does not meet those standards, the transportation asset management council shall seek concurrence from the department that the asset management plan does not meet the transportation asset management council's standards. If the department concurs, the transportation asset management council shall require the local road agency to revise its asset management plan to conform to the standards within 6 months after notifying the local road agency that the asset management plan does not meet the transportation asset management council's standards. The transportation asset management council shall provide an opportunity for a noncompliant local road agency to appear before the transportation asset management council to discuss the reasons the local road agency's plan is not in compliance and ways for the local road agency to become compliant.

(15) Beginning October 1, 2025, if the transportation asset management council determines, and the department concurs, that a local road agency described in subsection (11)(b) has not demonstrated progress toward achieving the condition goals described in its asset management plan for its federal-aid eligible county primary road system or city major street system, as applicable, the transportation asset management council shall provide notice to the local road agency of the reasons that it has determined progress is not being made and recommendations on how to make progress toward the local road agency's condition goals. The local road agency shall become compliant within 6 months after receiving the notification required by this subsection. The transportation asset management council shall provide an opportunity for the noncompliant local road agency to appear before the transportation asset management council to discuss the reasons the local road agency is not compliant and ways for the local road agency to become compliant. If the local road agency is not compliant within 6 months after receiving the notification required by this subsection, the local road agency shall not shift funds distributed to it under this act from a county primary road system to a county local road system or from a city major street system to a city local street system, as applicable. On demonstration of progress toward achieving its condition goals, a local road agency may shift funds distributed to it under this act from a county primary road system to a county local road system or from a city major street system to a city local street system, as applicable.

A local road agency may submit a revised asset management plan to the transportation asset management council. If a local road agency's asset management plan is determined to be out of compliance, the local road agency's asset management plan is disapproved for the purposes of sections 12 and 13.

(16) The staff assigned to the transportation asset management council shall prepare an annual report regarding the results of activities conducted during the preceding year and the expenditure of funds related to the processes and activities identified by the Michigan infrastructure council. The report must also include a summary analysis of the asset management plans and annual reports received from local road agencies, a determination of how investments are achieving desired levels of service and performance goals, an identification of any additional steps that may be needed to achieve desired levels of service and performance goals, and an overview of the activities identified for the succeeding year. The transportation asset management council shall submit this report to the Michigan infrastructure council, the state transportation commission, each house of the legislature, and the transportation committees of the house and senate by May 2 of each year.

(17) Funding necessary to support the activities described in this section must be provided by an annual appropriation from the Michigan transportation fund to the state transportation commission. Beginning on September 30, 2018, the annual appropriation provided for in this subsection must be allocated to the Michigan infrastructure council and must be used to support the activities described in this section.

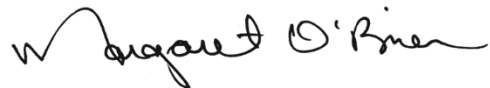
(18) The department and each local road agency shall keep accurate and uniform records on all road and bridge work performed and funds expended for the purposes of this section, according to the procedures developed by the transportation asset management council. Each local road agency and the department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

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor