

SENATE BILL No. 2

January 19, 2011, Introduced by Senator PAPPAGEORGE 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 section 12 (MCL 247.662), as amended by 2010 PA 143.

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 each
12 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 the
3 counties' November monthly distribution provided for in section 17,
4 and the amount shall be returned to the county road commissions for
5 snow removal purposes as provided in section 12a.

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

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

22 (6) Seventy-five percent of the remainder of the total amount
23 to be returned to the counties shall be expended by each county
24 road commission for the preservation, construction, acquisition,
25 and extension of the county primary road system, including the
26 acquisition of a necessary right of way for the system, work
27 incidental to the system, and a roadside park or motor parkway

1 appurtenant to the system, and shall be returned to the counties as
2 follows:

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

8 (b) One-tenth of the amount in the same proportion that the
9 ~~total mileage~~ **ANNUAL VEHICLE MILES TRAVELED AS DETERMINED BY THE**
10 **FEDERAL HIGHWAY ADMINISTRATION** in the county primary road system of
11 each county bears to the ~~total mileage~~ **ANNUAL VEHICLE MILES**
12 **TRAVELED AS DETERMINED BY THE FEDERAL HIGHWAY ADMINISTRATION** in all
13 of the county primary road 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 motor
22 parkway appurtenant to the system, and shall be returned to the
23 counties as follows:

24 (a) Sixty-five percent of the amount in the same proportion
25 that the ~~total mileage~~ **ANNUAL VEHICLE MILES TRAVELED AS DETERMINED**
26 **BY THE FEDERAL HIGHWAY ADMINISTRATION** in the county local road
27 system of each county bears to the ~~total mileage~~ **ANNUAL VEHICLE**

1 **MILES TRAVELED AS DETERMINED BY THE FEDERAL HIGHWAY ADMINISTRATION**
2 in all of the county local road systems of the state.

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

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

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

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

1 the payment of principal and interest on bonds issued after June
2 30, 1957, under the authorization of section 18c and contracts
3 executed pursuant to its provisions.

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

7 (9) Beginning November 1, 2008, not to exceed 50% per year of
8 the amount returned to a county for use on the county primary road
9 system may be expended, with or without matching, on the county
10 local road system of that county. Except as otherwise provided in
11 this subsection, beginning September 30, 2010, not to exceed 30%
12 per year of the amount returned to a county for use on the county
13 primary road system may be expended, with or without matching, on
14 the county local road system of that county. An additional amount,
15 not to exceed 20% per year of the amount returned to a county for
16 use on the county primary road system, may be expended on the
17 county local road system of that county if there is an emergency or
18 if the county road commission determines that an additional 20% may
19 be expended on the county local road system. The county road
20 commission may attach any conditions to its determination if the
21 determination is for nonemergency purposes, including, but not
22 limited to, a requirement that the additional 20% expended on the
23 county local road system only be used to supplement funds from
24 other sources. Not to exceed 15% per year of the amount returned to
25 a county for expenditure on the county local road system may be
26 used, with or without matching, on the county primary road system
27 of that county, and not to exceed an additional 15% per year of the

1 amount returned to a county for expenditure on the county local
2 road system, may, in case of an emergency or with the approval of
3 the county road commission, be expended, with or without matching,
4 on the county primary road system of that county. An amount
5 returned to a county for and on account of county local roads,
6 under this section, in excess of the total amount paid into the
7 county treasury each year by all of the townships of that county
8 for and on account of the county local roads pursuant to section
9 14(6) may be transferred to and expended on the county primary road
10 system of that county.

11 (10) Not less than 20% per year of the funds returned to a
12 county by this section shall be expended for snow and ice removal,
13 the construction or reconstruction of a new highway or existing
14 highway, and the acquisition of a necessary right of way for those
15 highways, and work incidental to those highways, or for the
16 servicing of bonds issued by the county for these purposes. Surplus
17 funds may be expended for the development, construction, or repair
18 of an off-street parking facility.

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

23 (12) Funds returned to a county shall be expended by the
24 county road commission for the purposes provided in this section
25 and shall be deposited by the county treasurer in a designated
26 county depository, in a separate account to the credit of the
27 county road fund, and shall be paid out only upon the order of the

1 county road commission, and interest accruing on the money shall
2 become a part of, and be deposited with the county road fund.

3 (13) In a county to which the funds are returned the function
4 of the county road commission shall be limited to the formation of
5 policy and the performance of the official duties imposed by law
6 and delegated by the county board of commissioners. A member of the
7 county road commission shall not be employed individually in any
8 other capacity for other duties with the county road commission.

9 (14) A county road commission may enter into an agreement with
10 a county road commission of an adjacent county and with a city or
11 village to perform work on a highway, road, or street, and with the
12 state transportation department with respect to a state trunk line
13 and connecting links of the state trunk line within the limits of
14 the county or adjacent to the county. The agreement may provide for
15 the performance by each contracting party of the work contemplated
16 by the contract including engineering services and the acquisition
17 of rights of way in connection with the work contemplated, by
18 purchase or condemnation, by any of the contracting parties in its
19 own name and the agreement may provide for joint participation in
20 the costs.

21 (15) Money distributed from the Michigan transportation fund
22 may be expended for construction purposes on county local roads
23 only to the extent matched by money from other sources. However,
24 Michigan transportation funds may be expended for the construction
25 of bridges on the county local roads in an amount not to exceed 75%
26 of the cost of the construction of local road bridges. ~~This~~
27 ~~subsection does not apply to section 11b.~~

1 (16) Notwithstanding any other provision of this act, at least
2 90% of the state revenue returned annually to the county road
3 commission from the Michigan transportation fund less the amounts
4 described in subdivisions (a) to (e) shall be expended annually by
5 the county road commission for the preservation of highways, roads,
6 streets, and bridges, and for the payment of contractual
7 contributions pledged for the payment of bonds or portions of
8 bonds, debt service requirements for the payment of bonds or
9 portions of bonds, and debt service requirements for the payment of
10 notes and loans or portions of notes and loans issued or received
11 after July 1, 1983, for the purpose of providing funds for the
12 preservation of highways, roads, streets, and bridges. If an
13 appropriate certificate is filed under subsection (19) but only to
14 the extent necessary, this subsection shall not prohibit the use of
15 any amount of state revenue returned annually to the county road
16 commissions for the payment of contractual contributions pledged
17 for the payment of bonds, for debt service requirements for the
18 payment of bonds, and for debt service requirements for the payment
19 of notes or loans, whenever issued or received, as specified under
20 subsection (8). The amounts which are deducted from the state
21 revenue returned to a county road commission from the Michigan
22 transportation fund, for the purpose of the calculation required by
23 this subsection are as follows:

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

27 (b) Amounts expended for the administrative costs of the

1 county road commission.

2 (c) Amounts expended for capital outlay projects for equipment
3 and buildings, and for the payment of contractual contributions
4 pledged for the payment of bonds, for debt service requirements for
5 the payment of bonds, and for debt service requirements for the
6 payment of notes and loans issued or received after July 1, 1983,
7 for the purpose of providing funds for capital outlay projects for
8 equipment and buildings.

9 (d) Amounts expended for projects vital to the economy of the
10 local area or the safety of the public in the local area. Before
11 these amounts can be deducted, the governing body over the county
12 road commission or the county road commission, as applicable, shall
13 pass a resolution approving these projects. This resolution shall
14 state which projects will be funded and the cost of each project. A
15 copy of each approved resolution shall be forwarded immediately to
16 the department.

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

19 (17) As used in this subsection, "urban routes" means those
20 portions of 2-lane county primary roads within an urban area which
21 has average daily traffic in excess of 15,000. Notwithstanding any
22 other provision of this act, except as provided in this subsection,
23 a county road commission shall expend annually at least 90% of the
24 federal revenue distributed to the use of the county road
25 commission for highways, roads, streets, and bridges, less the
26 amount expended on urban routes for other than preservation
27 purposes and the amount expended for hard-surfacing of gravel roads

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

1 preservation of highways, roads, streets, and bridges, the county
2 road commission shall expend in each year subsequent to the 3-year
3 period 100%, or less in 1 year if sufficient for the purposes of
4 this subsection, of the federal revenue distributed to the use of
5 the county road commission for highways, roads, streets, and
6 bridges, less the amount expended on urban routes for other than
7 preservation purposes and the amount expended for hard-surfacing of
8 gravel roads on the federal-aid system, on the preservation of
9 highways, roads, streets, and bridges until the average percentage
10 spent on the preservation of highways, roads, streets, and bridges
11 in the 3-year period and the subsequent years, less the amount
12 expended on urban routes for other than preservation purposes and
13 the amount expended for hard-surfacing of gravel roads on the
14 federal-aid system, is at least 90%. A year may be included in only
15 one 3-year period for the purposes of this subsection. The
16 requirements of this subsection shall be waived if compliance would
17 cause the county road commission to be ineligible according to
18 federal law for federal revenue, but only to the extent necessary
19 to make the county road commission eligible according to federal
20 law for that revenue. For the purpose of the calculations required
21 by this subsection, the amount expended on urban routes by a county
22 road commission for other than preservation purposes and the amount
23 expended for hard-surfacing of gravel roads on the federal-aid
24 system shall be deducted from the total federal revenue distributed
25 to the use of the county road commission.

26 (18) A county road commission shall certify, which
27 certification shall, for purposes of the validity of bonds and

1 notes, be conclusive as to the matters stated therein, to the state
2 transportation department on or before the issuance of any bonds or
3 notes issued after July 1, 1983, pursuant to 1943 PA 143, MCL
4 141.251 to 141.254, 1941 PA 205, MCL 252.51 to 252.64, or section
5 18c or 18d, for purposes other than the preservation of highways,
6 roads, streets, and bridges and purposes other than the purposes
7 specified in subsection (16)(c) that its average annual debt
8 service requirements for all bonds and notes or portions of bonds
9 and notes issued after July 1, 1983, for purposes other than the
10 preservation of highways, roads, streets, and bridges and other
11 than for the purposes specified in subsection (16)(c), including
12 the bond or note to be issued does not exceed 10% of the funds
13 returned to the county road commission pursuant to this act, less
14 the amounts specified in subsection (16)(a), (b), and (c) during
15 the last completed fiscal year of the county road commission. If
16 the purpose for which the bonds or notes are issued is changed
17 after the issuance of the notes or bonds, the change shall be made
18 in such a manner to maintain compliance with the certification
19 required by this subsection, as of the date the certificate was
20 originally issued, but no such change shall invalidate or otherwise
21 affect the bonds or notes with respect to which the certificate was
22 issued or the obligation to pay debt service on the bonds or notes.

23 (19) In each charter county to which funds are returned under
24 this section, the responsibility for road improvement,
25 preservation, and traffic operation work, and the development,
26 construction, or repair of off-road parking facilities and
27 construction or repair of road lighting shall be coordinated by a

1 single administrator to be designated by the county executive who
2 shall be responsible for and shall represent the charter county in
3 transactions with the state transportation department pursuant to
4 this act.

5 (20) Not more than 10% per year of all of the funds received
6 by and returned to a county from any source for the purposes of
7 this section may be expended for administrative expenses. A county
8 that expends more than 10% for administrative expenses in a year
9 shall be subject to section 14(5) unless a waiver is granted by the
10 department of treasury. As used in this subsection, "administrative
11 expenses" means those expenses that are not assigned including, but
12 not limited to, specific road construction or preservation projects
13 and are often referred to as general or supportive services.
14 Administrative expenses shall not include net equipment expense,
15 net capital outlay, debt service principal and interest, and
16 payments to other state or local offices which are assigned, but
17 not limited to, specific road construction projects or preservation
18 activities.

19 (21) In addition to the financial compliance audits required
20 by law, the department of treasury shall conduct performance audits
21 and make investigations of the disposition of all state funds
22 received by county road commissions, county boards of
23 commissioners, or any other county governmental agency acting as
24 the county road authority, for transportation purposes to determine
25 compliance with the terms and conditions of this act. Performance
26 audits shall be conducted according to government auditing
27 standards issued by the United States general accounting office.

1 The department of treasury shall provide 6 months notice to the
2 county road commission or county board of commissioners, as
3 applicable, of the standards to be used for audits performed under
4 this subsection prior to the fiscal year in which the audit is
5 conducted. The department shall notify the county road commission
6 or county board of commissioners of any subsequent changes to the
7 standards. County road commissions or county boards of
8 commissioners, as applicable, shall make available to the
9 department of treasury the pertinent records for the audit.