

Act No. 248
Public Acts of 2023
Approved by the Governor
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**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Rep. Shannon

ENROLLED HOUSE BILL No. 4897

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 sections 12 and 13b (MCL 247.662 and 247.663b), section 12 as amended by 2020 PA 152.

The People of the State of Michigan enact:

Sec. 12. (1) The amount distributed to the county road commissions must be returned to the county treasurers in the manner, for the purposes, and under the terms and conditions specified in this section. The department and the County Road Association of Michigan shall jointly develop incentives for counties to establish statewide purchasing pools for the more efficient use of Michigan transportation funds.

(2) Each county road commission shall be reimbursed in an amount up to \$10,000.00 per year for the sum paid to a licensed professional engineer employed or retained by the county road commission in the previous year. The sum must be returned to each county road commission certified by the department as complying with this subsection regarding the employment of an engineer.

(3) An amount equal to 1% of the total amount returned to the county road commissions from the Michigan transportation fund during the prior calendar year must be withheld annually from the counties' November monthly distribution provided for in section 17, and the amount must be returned to the county road commissions for snow removal purposes as provided in section 12a.

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

(5) An amount equal to 4% of the total amount returned to the county road commissions from the Michigan transportation fund must be returned to the county road commissions in the same percentages under subsection (7). All money returned to the county road commissions under this subsection must be expended by the county road commissions for the preservation, construction, acquisition, and extension of county local road systems and is in addition to the amounts provided in subsection (7).

(6) Except as otherwise provided in subsection (23), 75% of the remainder of the total amount to be returned to the counties must be expended by each county road commission for the preservation, construction, acquisition, and extension of the county primary road system, including the acquisition of a necessary right of way for the system, work incidental to the system, and a roadside park or motor parkway appurtenant to the system, and must be returned to the counties as follows:

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

(b) One-tenth of the amount in the same proportion that the total mileage in the county primary road system of each county bears to the total mileage in all of the county primary road systems of this state.

(c) One eighty-third of the remaining 15% of the amount to each county.

(7) Except as otherwise provided in subsection (23), the balance of the remainder of the total amount to be returned to counties must be expended by each county road commission for the preservation, construction, acquisition, and extension of the county local road system as defined by this act, including the acquisition of a necessary right of way for the system, work incidental to the system, and a roadside park or motor parkway appurtenant to the system, and must be returned to the counties as follows:

(a) Sixty-five percent of the amount in the same proportion that the total mileage in the county local road system of each county bears to the total mileage in all of the county local road systems of this state.

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

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

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

(b) For the payment of principal and interest on bonds issued under section 18c, and the payment of contributions of a board of county road commissioners made under contracts entered into under section 18d that are pledged to the payment of principal and interest on bonds issued after June 30, 1957, under the authorization of section 18c and contracts executed under section 18c.

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

(9) Beginning November 1, 2008, no more than 50% per year of the amount returned to a county for use on the county primary road system may be expended, with or without matching, on the county local road system of that county. Except as otherwise provided in this subsection, beginning September 30, 2010, no more than 30% per year of the amount returned to a county for use on the county primary road system may be expended, with or without matching, on the county local road system of that county. An additional amount, not to exceed 20% per year of the amount returned to a county for use on the county primary road system, may be expended on the county local road system of that county if there is an emergency or if the county road commission determines that an additional 20% may be expended on the county local road system. The county road commission may attach any conditions to its determination if the determination is for nonemergency purposes, including, but not limited to, a requirement that the additional 20% expended on the county local road system only be used to supplement money from other sources. No more than 15% per year of the amount returned to a county for expenditure on the county local road system may be used, with or without matching, on the county primary road system of that county, and not to exceed an additional 15% per year of the amount returned to a county for expenditure on the county local road system, may, in case of an emergency or with the approval of the county road commission, be expended, with or without matching, on the county primary road system of that county. An amount returned to a county for and on account of county local roads under this section that is in excess of the total amount paid into the county treasury each year by all of the townships of that county for and on account of the county local roads under section 14(6) may be transferred to and expended on the county primary road system of that county.

(10) Not less than 20% per year of the money returned to a county by this section must be expended for snow and ice removal, the reconstruction of an existing highway if not in conflict with its asset management plan as provided in section 9a, and the acquisition of a necessary right of way for those highways, and work incidental to those highways, or for the servicing of bonds issued by the county for these purposes. A county may expend surplus money for the development, construction, or repair of an off-street parking facility.

(11) Not more than 5% per year of the money returned to a county for the county road system must be expended for the maintenance, improvement, or acquisition of appurtenant roadside parks and motor parkways.

(12) Money returned to a county must be expended by the county road commission for the purposes provided in this section and must be deposited by the county treasurer in a designated county depository, in a separate account to the credit of the county road fund, and must be paid out only on the order of the county road commission, and interest accruing on the money must become a part of, and be deposited with the county road fund.

(13) In a county to which money is returned under this section, the function of the county road commission is limited to the formation of policy and the performance of the official duties imposed by law and delegated by the county board of commissioners. A member of the county road commission shall not be employed individually in any other capacity for other duties with the county road commission.

(14) A county road commission may enter into an agreement with a county road commission of another county, with a city or village, or with the department, to perform work on a highway, road, or street within the limits of that county or of another county. The agreement may provide for the performance by each contracting party of the work contemplated by the contract including engineering services and the acquisition of rights of way in connection with the work contemplated, by purchase or condemnation, by any of the contracting parties in its own name and the agreement may provide for joint participation in the costs.

(15) Money distributed from the Michigan transportation fund may be expended for construction purposes on county local roads only to the extent matched by money from other sources. However, Michigan transportation funds may be expended for the construction of bridges on the county local roads in an amount not to exceed 75% of the cost of the construction of local road bridges. The match may exceed 75% of the cost of construction in the case of a public emergency.

(16) Notwithstanding any other provision of this act, at least 90% of the state revenue returned annually to the county road commission from the Michigan transportation fund less the amounts described in subdivisions (a) to (e) must be expended annually by the county road commission for the preservation of highways, roads, streets, and bridges, and for the payment of contractual contributions pledged for the payment of bonds or portions of bonds, debt service requirements for the payment of bonds or portions of bonds, and debt service requirements for the payment of notes and loans or portions of notes and loans issued or received after July 1, 1983, for the purpose of providing money for the preservation of highways, roads, streets, and bridges. If an appropriate certificate is filed under subsection (18) but only to the extent necessary, this subsection does not prohibit the use of any amount of state revenue returned annually to the county road commissions for the payment of contractual contributions pledged for the payment of bonds, for debt service requirements for the payment of bonds, and for debt service requirements for the payment of notes or loans, whenever issued or received, as specified under subsection (8). The amounts that are deducted from the state revenue returned to a county road commission from the Michigan transportation fund, for the purpose of the calculation required by this subsection are as follows:

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

(b) Amounts expended for the administrative costs of the county road commission.

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

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

(e) Amounts expended in urban areas as determined under section 12b.

(17) Notwithstanding any other provision of this act, except as provided in this subsection, a county road commission shall annually expend at least 90% of the federal revenue distributed to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges. A county road commission may expend in 1 year less than 90% of the federal revenue distributed to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges, if that year is part of a 3-year period in which at least 90% of the total federal revenue distributed in the 3-year period to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is expended on the preservation of highways, roads, streets, and bridges. If a county road commission expends in 1 year less than 90% of the federal revenue distributed to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges and that year is not a part of a 3-year period in which at least 90% of the total federal revenue distributed in the 3-year period to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is expended on the preservation of highways, roads, streets, and bridges, the county road commission shall expend in each year subsequent to the 3-year period 100%, or less in 1 year if sufficient for the purposes of this subsection, of the federal revenue distributed to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges until the average percentage spent on the preservation of highways, roads, streets, and bridges in the 3-year period and the subsequent years, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is at least 90%. A year may be included in only one 3-year period for the purposes of this subsection. The requirements of this subsection are waived if compliance would cause the county road commission to be ineligible for federal revenue under federal law, but only to the extent necessary to make the county road commission eligible for that revenue under federal law. For the purpose of the calculations required by this subsection, the amount expended on urban routes by a county road commission for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system must be deducted from the total federal revenue distributed to the use of the county road commission. As used in this subsection, "urban routes" means those portions of 2-lane county primary roads within an urban area that have average daily traffic in excess of 15,000.

(18) A county road commission shall certify to the department on or before the issuance of any bonds or notes issued after July 1, 1983, under 1943 PA 143, MCL 141.251 to 141.254, 1941 PA 205, MCL 252.51 to 252.64, or section 18c or 18d, for purposes other than the preservation of highways, roads, streets, and bridges and purposes other than the purposes specified in subsection (16)(c) that its average annual debt service requirements for all bonds and notes or portions of bonds and notes issued after July 1, 1983, for purposes other than the preservation of highways, roads, streets, and bridges and other than for the purposes specified in subsection (16)(c), including the bond or note to be issued does not exceed 10% of the money returned to the county road commission under this act, less the amounts specified in subsection (16)(a), (b), and (c) during the last completed fiscal year of the county road commission. If the purpose for which the bonds or notes are issued is changed after the issuance of the notes or bonds, the change must be made in a manner that maintains compliance with the certification required by this subsection, as of the date the certificate was originally issued, but the change does not invalidate or otherwise affect the bonds or notes with respect to which the certificate was issued or the obligation to pay debt service on the bonds or notes. A certification under this subsection is conclusive as to the matters stated in the certification for purposes of the validity of bonds and notes.

(19) In each charter county to which funds are returned under this section, the responsibility for road improvement, preservation, and traffic operation work, and the development, construction, or repair of off-road parking facilities and construction or repair of road lighting must be coordinated by a single administrator designated by the county executive who is responsible for and represents the charter county in transactions with the department under this act.

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

(21) In addition to the financial compliance audits required by law, the department may conduct performance audits and make investigations of the disposition of all state money received by county road commissions, county boards of commissioners, or any other county governmental agency acting as the county road authority, for transportation purposes to determine compliance with the terms and conditions of this act. Performance audits must be conducted according to government auditing standards issued by the United States General Accounting Office. The department shall develop performance audit procedures and reporting requirements sufficient to determine whether money expended under this section was expended in compliance with this act by September 1, 2012 and shall report to the transportation committees of the senate and house of representatives no later than October 1, 2012 on the additional audit procedures and reporting requirements. The department shall provide notice to the county road commission, county board of commissioners, or any other county governmental agency acting as the county road authority, as applicable, of the standards to be used for audits performed under this subsection. The notice must be provided 6 months before the fiscal year in which the audit is conducted. The department shall notify the county road commission, county board of commissioners, or any other county governmental agency acting as the county road authority of any subsequent changes to the standards. County road commissions, county boards of commissioners, or any other county governmental agencies acting as county road authorities, as applicable, shall make available to the department the pertinent records for the audit. Performance audits may be performed at the discretion of the department or on receiving a request from the speaker of the house of representatives or the senate majority leader.

(22) Of the amounts appropriated for a county primary or local road system under this section, where possible, a county road commission shall secure pavement warranties for full replacement or appropriate repair for contracted construction work on pavement projects whose cost exceeds \$2,000,000.00 and projects for new construction or reconstruction undertaken after April 1, 2016, if allowed by the Federal Highway Administration and the department. A county road commission shall submit a proposed warranty program to the department for approval no later than April 1, 2016. If a proposed warranty program submitted under this subsection is approved by the department, the county road commission shall implement the program no later than 1 year after the approval. A county road commission shall include a list of all warranties that were secured under this subsection and indicate whether any of those warranties were redeemed with the report required under section 14(3), and shall also list all pavement projects whose cost exceeds \$2,000,000.00 for which a warranty was not secured. The list must include, but is not limited to, all of the following information:

- (a) The type of project.
- (b) The cost or estimated cost of the project.
- (c) The expected lifespan of the project.
- (d) Whether or not the project met or is currently meeting its expected lifespan.
- (e) If the project failed to meet or is not meeting its expected lifespan, the cause of the failure and the cost to replace or repair the project.
- (f) The entity responsible for paying the cost of replacing or repairing the project.

(23) Once the asset management plan for a county as described in section 9a has been approved, amounts distributed to a county under this section must be expended toward attainment of the condition goals in the asset management plan and as otherwise required by this act.

(24) A county road commission may use a portion of the amount returned to the county under this section for the payment of debt service on bonds, notes, or other obligations.

Sec. 13b. A county road commission may contract with other county road commissions or with the department for the purchase and use of equipment or machinery necessary for the construction, maintenance, or operation of a road or highway.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor