

SENATE BILL No. 436

July 1, 2015, Introduced by Senator KNOLLENBERG 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 18b (MCL 247.668b), as amended by 2002 PA 498, and by adding section 18m.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 18b. (1) The state transportation commission may borrow
2 money and issue notes or bonds for the following purposes:

3 (a) To pay all or any portion of or to make loans, grants, or
4 contract payments to pay all or any portion of any capital costs
5 for the purposes described in section 9 of article IX of the state
6 constitution of 1963.

7 (b) To pay the principal or the principal and interest on
8 notes and, if the state transportation commission considers
9 refunding to be expedient, to refund bonds payable from money in
10 the state trunk line fund or the comprehensive transportation fund
11 or received or to be received from the motor vehicle highway fund
12 or the Michigan transportation fund regardless of when the refunded
13 bonds were issued, by the issuance of new bonds, whether or not the
14 bonds to be refunded have matured or are subject to prior
15 redemption or are to be paid, redeemed, or surrendered at the time

1 of issuance of the refunding bonds; and to issue new bonds partly
2 to refund bonds or pay notes then outstanding and partly for any
3 other transportation purpose authorized by this act.

4 (c) To pay all costs relating to the issuance of the bonds or
5 notes described in this section, including, but not limited to,
6 legal, engineering, accounting, and consulting services, interest
7 on bonds or notes for such period as determined by the state
8 transportation commission in the resolution authorizing the bonds
9 or notes and a reserve for payment of principal, interest, and
10 redemption premiums on the bonds or notes in an amount determined
11 by the state transportation commission in the resolution
12 authorizing the bonds or notes.

13 (2) The refunding bonds described in subsection (1)(b) shall
14 be sold and the proceeds and the earnings or profits from the
15 investment of those proceeds applied in whole or in part to the
16 purchase, redemption, or payment of the principal or the principal
17 and interest of the bonds to be refunded and the refunding bonds
18 issued by the state transportation commission under subsection
19 (1)(b) and the costs described in subsection (1)(c). Refunding
20 notes or bonds shall be considered to be issued for the same
21 purpose or purposes for which the notes or bonds to be refunded
22 were issued.

23 (3) The notes or bonds authorized by this section shall be
24 issued only after authorization by resolution of the state
25 transportation commission, which ~~resolution~~ shall contain **ALL OF**
26 the following:

27 (a) An irrevocable pledge providing for the payment of the

1 principal and interest on the notes or bonds from money ~~which~~ **THAT**
2 is restricted as to use by section 9 of article IX of the state
3 constitution of 1963 and ~~which~~ **THAT** is deposited or to be deposited
4 in the comprehensive transportation fund, in the case of bonds or
5 notes issued for comprehensive transportation purposes as defined
6 by law, or in the state trunk line fund, in the case of bonds or
7 notes issued for transportation purposes described in the second
8 paragraph of section 9 of article IX of the state constitution of
9 1963, or in the case of notes or bonds, if the resolution
10 authorizing the notes or bonds provides, from money received or to
11 be received by the ~~state transportation~~ department from the
12 proceeds of bonds or renewal notes to be issued after the date of
13 the resolution or from money received or to be received from the
14 proceeds of the grants described in subsection (9). If **PROVIDED IN**
15 the resolution authorizing the bonds or notes, ~~so provides,~~ a
16 portion of the principal or interest on the bonds or notes may be
17 secured by an irrevocable pledge of money deposited in the
18 comprehensive transportation fund or the state trunk line fund, and
19 the balance of the principal and interest secured by an irrevocable
20 pledge of the proceeds of bonds or renewal notes or money received
21 or to be received from the proceeds of the grants described in
22 subsection (9).

23 (b) A brief statement describing the projects for which the
24 notes or bonds are to be issued and in the case of notes or bonds
25 to pay notes or refund bonds, a description of the notes or bonds
26 to be paid or refunded. For purposes of this section and section
27 18k, in connection with bonds issued to fund the loan program

1 established under section 11(6) to (11), the loan program shall
2 constitute the project, and it ~~shall~~**IS** not ~~be~~ necessary to specify
3 the particular item or costs of a particular item to be financed
4 from any particular loan made under the loan program.

5 (c) The estimated cost of the projects or refunding or
6 refinancing.

7 (d) The detail of the notes or bonds including the date of
8 issue, maturity date or dates of the bonds or notes, the maximum
9 interest rate, the dates of payment of interest, the paying agents,
10 the transfer agent or agents, the provisions for registration, the
11 redemption provisions, and the manner of execution or, as provided
12 in subsection (11) (d), the limitations within which ~~such~~**THE** detail
13 may be determined by ~~the~~**A** person designated by the commission.

14 (4) If after the issuance of notes or bonds, the state
15 transportation commission determines that a project for which the
16 notes or bonds are to be issued should be changed, the state
17 transportation commission, by resolution ~~—~~adopted after the 30
18 days' notice of intention to adopt the resolution has been given to
19 the appropriations committees of the senate and the house of
20 representatives, shall amend the resolution authorizing the bonds
21 or notes to change the description of the project ~~or projects~~ or to
22 substitute a different project ~~or projects~~ for the project for
23 which the notes or bonds were issued and shall make other revisions
24 in the resolution authorizing the notes or bonds with respect to
25 cost as may be necessary to permit the change in or substitution of
26 ~~a~~**THE** project. ~~or projects.~~

27 (5) Before October 1, 1979, the total amount of bonds and

1 notes issued ~~pursuant to~~ **UNDER** this section for comprehensive
2 transportation purposes as defined by law shall not exceed an
3 amount as will be serviced as to maximum principal and interest
4 requirements by a sum equal to the amount deposited to the credit
5 of the general transportation fund for the fiscal year ending
6 September 30, 1977. After September 30, 1979, the total amount of
7 bonds and notes issued ~~pursuant to~~ **UNDER** this section for
8 comprehensive transportation purposes as defined by law shall not
9 exceed an amount as will be serviced, out of state funds only, as
10 to maximum annual principal and interest requirements by an amount
11 equal to 50% of the total amount of money from taxes, the use of
12 which ~~money~~ is restricted by section 9 of article IX of the state
13 constitution of 1963, and which ~~money~~ is deposited in the state
14 treasury to the credit of the comprehensive transportation fund
15 during the state fiscal year immediately preceding the issuance of
16 the bonds or notes.

17 (6) The total amount of bonds and notes issued ~~pursuant to~~
18 **UNDER** this section for transportation purposes described in the
19 second paragraph of section 9 of article IX of the state
20 constitution of 1963 shall not exceed an amount as will be serviced
21 as to the maximum principal and interest requirements by a sum
22 equal to 50% of the total of the amount of money received from
23 taxes, the use of which is restricted by section 9 of article IX of
24 the state constitution of 1963 and which is deposited in the state
25 treasury to the credit of the state trunk line fund during the
26 state fiscal year immediately preceding the issuance of the bonds
27 or notes.

1 (7) The principal or principal and interest or the portion of
2 principal or interest of bonds or notes ~~which~~ **THAT** are issued in
3 anticipation of the issuance of bonds or renewal notes or of
4 federal grants as provided in subsection (9) and ~~which~~ **THAT** do not
5 pledge for their payment money in the state trunk line fund or the
6 comprehensive transportation fund or money received or to be
7 received by the ~~state transportation~~ department from the Michigan
8 transportation fund or the motor vehicle highway fund shall not be
9 considered to be principal and interest requirements subject to the
10 ~~limitation set forth in~~ **LIMITATIONS UNDER** subsections (5) and (6).
11 The principal of and interest on notes or bonds refunded or for the
12 refunding of which refunding bonds have been sold, whether the
13 bonds to be refunded are to be retired at the time of delivery of
14 the refunding bonds or not, shall not be considered to be principal
15 and interest requirements subject to the ~~limitation set forth in~~
16 **LIMITATIONS UNDER** subsections (5) and (6).

17 (8) In computing the maximum annual principal and interest
18 requirements under subsection (6), the total outstanding maximum
19 annual contributions required to be made by the ~~state highway~~
20 ~~commission and the state transportation commission pursuant to~~
21 **UNDER** contracts entered into under ~~the authorization of~~ section
22 18d, which ~~contributions~~ are pledged to the payment of bonds issued
23 under section 18d, shall be included in the amount.

24 (9) The state transportation commission may borrow money and
25 issue notes or bonds in anticipation of the receipt of grants from
26 the United States of America or any agency or instrumentality
27 ~~thereof~~ **OF THE UNITED STATES OF AMERICA** and may pledge for the

1 payment of the principal, interest, and redemption premiums on such
2 notes or bonds 1 or more of the following:

3 (a) The proceeds of any grant and any investment earnings or
4 gain on the grant.

5 (b) If deemed advisable by the state transportation
6 commission, money ~~which~~**THAT** is restricted as to use by section 9
7 of article IX of the state constitution of 1963, and ~~which~~**THAT** is
8 deposited or to be deposited in the comprehensive transportation
9 fund, in the case of bonds or notes issued for comprehensive
10 transportation purposes as defined by law, or in the state trunk
11 line fund, in the case of bonds or notes issued for transportation
12 purposes described in the second paragraph of section 9 of article
13 IX of the state constitution of 1963.

14 (c) If deemed advisable by the state transportation
15 commission, money received or to be received by the state from the
16 sale of the bonds or notes described in this section to be issued
17 after the issuance of the notes or bonds described in this
18 subsection and any investment earnings or gain ~~thereon~~**ON THOSE**
19 **NOTES OR BONDS.**

20 (10) Bonds or notes may be issued under this section as
21 separate issues or series with different dates of issuance, but the
22 aggregate of the bonds or notes ~~shall be~~**ARE** subject to the
23 limitations set forth in this section.

24 (11) The state transportation commission in determining to
25 issue bonds or notes may do 1 or more of the following:

26 (a) Authorize and enter into insurance contracts, agreements
27 for lines of credit, letters of credit, commitments to purchase

1 obligations, remarketing agreements, reimbursement agreements, and
2 any other transactions to provide security to assure timely payment
3 of any bonds or notes.

4 (b) Authorize payment from the proceeds of the bonds or notes
5 or other funds available, of the cost of issuance, including, but
6 not limited to, fees for placement, fees or charges for insurance,
7 letters of credit, lines of credit, remarketing agreements,
8 reimbursement agreements, or purchase or sales agreements or
9 commitments, or other agreements to provide security to assure
10 timely payment of bonds or notes.

11 (c) Authorize principal and interest to be payable from 1 or
12 more of the following:

13 (i) Money described in subsection (3) (a).

14 (ii) Proceeds of bonds or notes.

15 (iii) Earning on proceeds of bonds or notes or other funds
16 held for payment of bonds or notes.

17 (iv) Proceeds of any other security provided to assure timely
18 payment of the bonds or notes.

19 (v) Proceeds of federal grants and other money described in
20 subsection (9).

21 (vi) Any combination of the sources described in subparagraphs
22 (i) to (v).

23 (d) Authorize or provide for a person designated by the state
24 transportation commission, but only within limitations ~~which shall~~
25 ~~be~~ **THAT ARE** contained in the authorization resolution of the state
26 transportation commission, to do 1 or more of the following:

27 (i) Sell, ~~and~~ deliver, and receive payment for bonds or notes.

1 (ii) Refund bonds or notes by the delivery of new bonds or
2 notes, whether or not the bonds or notes to be refunded have
3 matured or are subject to redemption prior to maturity on the date
4 of delivery of the refunding bonds or notes.

5 (iii) Deliver bonds or notes partly to refund bonds or notes
6 and partly for any other authorized purposes.

7 (iv) Buy, hold without cancellation, or sell bonds or notes so
8 issued.

9 (v) Approve interest rates or methods for fixing interest
10 rates, prices, discounts, maturities, principal amounts,
11 denominations, dates of issuance, interest payment dates, optional
12 or mandatory redemption or tender rights and obligations to be
13 exercised by the state transportation commission or the holder, the
14 place of delivery and payment, and other matters and procedures
15 necessary to complete the transactions authorized.

16 (e) In connection with outstanding bonds, notes, or other
17 obligations issued under this act, or in connection with the
18 issuance or proposed issuance of bonds, notes, or other
19 indebtedness, the state transportation commission may authorize by
20 resolution the execution and delivery of agreements providing for
21 interest rate exchanges or swaps, hedges, or similar agreements.
22 The obligations of this state under the agreements, including
23 termination payments, may be made payable from and secured by a
24 pledge of the same sources of funds as the bonds, notes, or other
25 obligations in connection with which the agreements are entered
26 into, or from any other sources of funds available as a payment
27 source of bonds, notes, or other obligations issued under this act.

1 In calculating debt service on bonds, notes, and other obligations,
2 the payments and receipts under the agreements authorized by this
3 subsection, without regard to termination payments, and the payment
4 obligations under the bonds, notes, or other obligations in
5 connection with which the agreements are entered into, shall be
6 aggregated and treated as a single obligation.

7 (f) Bonds and notes issued under this act are not subject to
8 the revised municipal finance act, 2001 PA 34, MCL 141.2101 to
9 141.2821.

10 (g) The issuance of bonds and notes under this section is
11 subject to the agency financing reporting act, **2002 PA 470, MCL**
12 **129.171 TO 129.177.**

13 (H) If additionally secured as provided in this subsection,
14 the bonds or notes, notwithstanding other provisions of this act,
15 may be made payable or subject to purchase on demand or prior to
16 maturity at the option of the holder at the time and in the manner
17 ~~as determined by the state transportation commission or the~~
18 ~~designated person as provided in the resolution authorizing the~~
19 ~~bonds or notes. Any bonds or notes authorized by this section may~~
20 ~~bear no interest or interest at a rate or rates which~~ **THAT** ~~may be~~
21 ~~variable but which shall be~~ **IS NOT** ~~subject to the limitations~~
22 ~~provided in~~ **UNDER** ~~section 18e as provided in the resolution~~
23 ~~authorizing the obligations. If bonds or notes are subject to~~
24 ~~payment or purchase on demand or prior to maturity at the option of~~
25 ~~the holder, and the obligation of the~~ **THIS** ~~state to make payment or~~
26 ~~effect purchases on demand or prior to maturity, at the option of~~
27 ~~the holder is limited to the proceeds of 1 or more of the~~

1 additional security devices described in this subsection and is not
2 payable from constitutionally restricted funds deposited in the
3 comprehensive transportation fund or the state trunk line fund, for
4 purposes of computing maximum annual principal and interest
5 requirements under subsections (5) and (6), the principal and
6 interest on the bonds or notes subject to payment or purchase on
7 demand or prior redemption at the option of the holder shall be
8 disregarded and the maximum annual principal and interest
9 requirements ~~which~~**THAT** would arise with respect to the repayment
10 of the proceeds of the additional security device shall be
11 substituted ~~therefor~~**FOR THE PRINCIPAL AND INTEREST.**

12 (12) THE STATE TRANSPORTATION COMMISSION SHALL ISSUE AND OFFER
13 FOR SALE REVENUE BONDS. THE PROCEEDS FROM THE SALE OF THE REVENUE
14 BONDS REQUIRED BY THIS SUBSECTION SHALL BE DEPOSITED IN THE
15 MICHIGAN ROADS TO RECOVERY FUND CREATED IN SECTION 18M.

16 SEC. 18M. (1) THE MICHIGAN ROADS TO RECOVERY FUND IS CREATED
17 WITHIN THE STATE TREASURY.

18 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM
19 ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL
20 DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT
21 TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

22 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL
23 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

24 (4) THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE FUND FOR
25 AUDITING PURPOSES.

26 (5) THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, UPON
27 APPROPRIATION, ONLY FOR THE PURPOSE OF FUNDING NEW ROAD

1 **CONSTRUCTION PROJECTS SELECTED BY THE DEPARTMENT.**

2 Enacting section 1. This amendatory act takes effect 90 days
3 after the date it is enacted into law.