

SENATE BILL NO. 716

January 14, 2020, Introduced by Senators VICTORY, THEIS, OUTMAN, BARRETT, LAUWERS, HORN, MACDONALD, BIZON, DALEY, BUMSTEAD, ZORN, JOHNSON, MCBROOM, VANDERWALL, LASATA and LUCIDO and referred to the Committee on Appropriations.

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 sections 18a and 18b (MCL 247.668a and 247.668b), section 18b as amended by 2002 PA 498.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 18a. (1) Subject to the provisions and the limitations
- 2 set forth in this act, money in the Michigan transportation fund,
- 3 distributed as provided in this act, may be expended for the
- 4 payment of the principal and interest on notes and bonds issued or

1 other indebtedness incurred by a governmental unit for
 2 transportation purposes as defined by law. Except as otherwise
 3 provided by law, the notes or bonds shall be payable solely from
 4 the proceeds of taxes restricted to use for the purposes described
 5 in section 9 of article ~~9~~**IX** of the state constitution of 1963,
 6 which are deposited in the state treasury to the credit of the
 7 Michigan transportation fund and are distributed ~~pursuant to~~**as**
 8 **provided in** this act. The notes and bonds shall not be general
 9 obligations of this state, which shall be specifically stated on
 10 the face of each note or bond sold.

11 **(2) The state transportation commission shall not borrow money**
 12 **and issue bonds or notes in excess of \$100,000,000.00 in any fiscal**
 13 **year without first giving not less than 30 days' notice to each**
 14 **house of the legislature. The legislature by concurrent resolution**
 15 **may disapprove the borrowing or issuance of bonds or notes in**
 16 **excess of \$100,000,000.00 within that 30-day period. The concurrent**
 17 **resolution must be approved on a record roll call vote of each**
 18 **house of the legislature.**

19 Sec. 18b. (1) ~~The~~**Subject to section 18a, the** state
 20 transportation commission may borrow money and issue notes or bonds
 21 for the following purposes:

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

26 (b) To pay the principal or the principal and interest on
 27 notes and, if the state transportation commission considers
 28 refunding to be expedient, to refund bonds payable from money in
 29 the state trunk line fund or the comprehensive transportation fund

1 or received or to be received from the motor vehicle highway fund
2 or the Michigan transportation fund regardless of when the refunded
3 bonds were issued, by the issuance of new bonds, whether or not the
4 bonds to be refunded have matured or are subject to prior
5 redemption or are to be paid, redeemed, or surrendered at the time
6 of issuance of the refunding bonds; and to issue new bonds partly
7 to refund bonds or pay notes then outstanding and partly for any
8 other transportation purpose authorized by this act.

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

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

28 (3) The notes or bonds authorized by this section shall be
29 issued only after authorization by resolution of the state

1 transportation commission, which resolution shall contain the
2 following:

3 (a) An irrevocable pledge providing for the payment of the
4 principal and interest on the notes or bonds from money which is
5 restricted as to use by section 9 of article IX of the state
6 constitution of 1963 and which is deposited or to be deposited in
7 the comprehensive transportation fund, in the case of bonds or
8 notes issued for comprehensive transportation purposes as defined
9 by law, or in the state trunk line fund, in the case of bonds or
10 notes issued for transportation purposes described in the second
11 paragraph of section 9 of article IX of the state constitution of
12 1963, or in the case of notes or bonds, if the resolution
13 authorizing the notes or bonds provides, from money received or to
14 be received by the state transportation department from the
15 proceeds of bonds or renewal notes to be issued after the date of
16 the resolution or from money received or to be received from the
17 proceeds of the grants described in subsection (9). If the
18 resolution authorizing the bonds or notes so provides, a portion of
19 the principal or interest on the bonds or notes may be secured by
20 an irrevocable pledge of money deposited in the comprehensive
21 transportation fund or the state trunk line fund, and the balance
22 of the principal and interest secured by an irrevocable pledge of
23 the proceeds of bonds or renewal notes or money received or to be
24 received from the proceeds of the grants described in subsection
25 (9).

26 (b) A brief statement describing the projects for which the
27 notes or bonds are to be issued and in the case of notes or bonds
28 to pay notes or refund bonds, a description of the notes or bonds
29 to be paid or refunded. For purposes of this section and section

1 18k, in connection with bonds issued to fund the loan program
2 established under section 11(6) to (11), the loan program shall
3 constitute the project, and it shall not be necessary to specify
4 the particular item or costs of a particular item to be financed
5 from any particular loan made under the loan program.

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

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

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

28 (5) Before October 1, 1979, the total amount of bonds and
29 notes issued pursuant to this section for comprehensive

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

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

26 (7) The principal or principal and interest or the portion of
27 principal or interest of bonds or notes which are issued in
28 anticipation of the issuance of bonds or renewal notes or of
29 federal grants as provided in subsection (9) and which do not

1 pledge for their payment money in the state trunk line fund or the
2 comprehensive transportation fund or money received or to be
3 received by the state transportation department from the Michigan
4 transportation fund or the motor vehicle highway fund shall not be
5 considered to be principal and interest requirements subject to the
6 limitation set forth in subsections (5) and (6). The principal of
7 and interest on notes or bonds refunded or for the refunding of
8 which refunding bonds have been sold, whether the bonds to be
9 refunded are to be retired at the time of delivery of the refunding
10 bonds or not, shall not be considered to be principal and interest
11 requirements subject to the limitation set forth in subsections (5)
12 and (6).

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

20 (9) The state transportation commission may borrow money and
21 issue notes or bonds in anticipation of the receipt of grants from
22 the United States of America or any agency or instrumentality
23 thereof and may pledge for the payment of the principal, interest,
24 and redemption premiums on such notes or bonds 1 or more of the
25 following:

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

28 (b) If deemed advisable by the state transportation
29 commission, money which is restricted as to use by section 9 of

1 article IX of the state constitution of 1963, and which is
2 deposited or to be deposited in the comprehensive transportation
3 fund, in the case of bonds or notes issued for comprehensive
4 transportation purposes as defined by law, or in the state trunk
5 line fund, in the case of bonds or notes issued for transportation
6 purposes described in the second paragraph of section 9 of article
7 IX of the state constitution of 1963.

8 (c) If deemed advisable by the state transportation
9 commission, money received or to be received by the state from the
10 sale of the bonds or notes described in this section to be issued
11 after the issuance of the notes or bonds described in this
12 subsection and any investment earnings or gain thereon.

13 (10) Bonds or notes may be issued under this section as
14 separate issues or series with different dates of issuance, but the
15 aggregate of the bonds or notes shall be subject to the limitations
16 set forth in this section.

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

19 (a) Authorize and enter into insurance contracts, agreements
20 for lines of credit, letters of credit, commitments to purchase
21 obligations, remarketing agreements, reimbursement agreements, and
22 any other transactions to provide security to assure timely payment
23 of any bonds or notes.

24 (b) Authorize payment from the proceeds of the bonds or notes
25 or other funds available, of the cost of issuance, including, but
26 not limited to, fees for placement, fees or charges for insurance,
27 letters of credit, lines of credit, remarketing agreements,
28 reimbursement agreements, or purchase or sales agreements or
29 commitments, or other agreements to provide security to assure

1 timely payment of bonds or notes.

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

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

5 (ii) Proceeds of bonds or notes.

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

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

10 (v) Proceeds of federal grants and other money described in
11 subsection (9).

12 (vi) Any combination of the sources described in subparagraphs
13 (i) to (v).

14 (d) Authorize or provide for a person designated by the state
15 transportation commission, but only within limitations which shall
16 be contained in the authorization resolution of the state
17 transportation commission, to do 1 or more of the following:

18 (i) Sell and deliver and receive payment for bonds or notes.

19 (ii) Refund bonds or notes by the delivery of new bonds or
20 notes, whether or not the bonds or notes to be refunded have
21 matured or are subject to redemption prior to maturity on the date
22 of delivery of the refunding bonds or notes.

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

25 (iv) Buy, hold without cancellation, or sell bonds or notes so
26 issued.

27 (v) Approve interest rates or methods for fixing interest
28 rates, prices, discounts, maturities, principal amounts,

1 denominations, dates of issuance, interest payment dates, optional
2 or mandatory redemption or tender rights and obligations to be
3 exercised by the state transportation commission or the holder, the
4 place of delivery and payment, and other matters and procedures
5 necessary to complete the transactions authorized.

6 (e) In connection with outstanding bonds, notes, or other
7 obligations issued under this act, or in connection with the
8 issuance or proposed issuance of bonds, notes, or other
9 indebtedness, the state transportation commission may authorize by
10 resolution the execution and delivery of agreements providing for
11 interest rate exchanges or swaps, hedges, or similar agreements.
12 The obligations of this state under the agreements, including
13 termination payments, may be made payable from and secured by a
14 pledge of the same sources of funds as the bonds, notes, or other
15 obligations in connection with which the agreements are entered
16 into, or from any other sources of funds available as a payment
17 source of bonds, notes, or other obligations issued under this act.
18 In calculating debt service on bonds, notes, and other obligations,
19 the payments and receipts under the agreements authorized by this
20 subsection, without regard to termination payments, and the payment
21 obligations under the bonds, notes, or other obligations in
22 connection with which the agreements are entered into, shall be
23 aggregated and treated as a single obligation.

24 (f) Bonds and notes issued under this act are not subject to
25 the revised municipal finance act, 2001 PA 34, MCL 141.2101 to
26 141.2821.

27 (g) The issuance of bonds and notes under this section is
28 subject to the agency financing reporting act, **2002 PA 470, MCL**
29 **129.171 to 129.177.**

1 If additionally secured as provided in this subsection, the
2 bonds or notes, notwithstanding other provisions of this act, may
3 be made payable or subject to purchase on demand or prior to
4 maturity at the option of the holder at the time and in the manner
5 as determined by the state transportation commission or the
6 designated person as provided in the resolution authorizing the
7 bonds or notes. Any bonds or notes authorized by this section may
8 bear no interest or interest at a rate or rates which may be
9 variable but which shall be subject to the limitations provided in
10 section 18e as provided in the resolution authorizing the
11 obligations. If bonds or notes are subject to payment or purchase
12 on demand or prior to maturity at the option of the holder, and the
13 obligation of the state to make payment or effect purchases on
14 demand or prior to maturity, at the option of the holder is limited
15 to the proceeds of 1 or more of the additional security devices
16 described in this subsection and is not payable from
17 constitutionally restricted funds deposited in the comprehensive
18 transportation fund or the state trunk line fund, for purposes of
19 computing maximum annual principal and interest requirements under
20 subsections (5) and (6), the principal and interest on the bonds or
21 notes subject to payment or purchase on demand or prior redemption
22 at the option of the holder shall be disregarded and the maximum
23 annual principal and interest requirements which would arise with
24 respect to the repayment of the proceeds of the additional security
25 device shall be substituted therefor.