

Act No. 135
Public Acts of 2010
Approved by the Governor
August 1, 2010
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**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

Introduced by Reps. Switalski, Byrnes, Leland, Liss, Bledsoe, Wayne Schmidt, Donigan, Lisa Brown, Tlaib, Gonzales, Young, Robert Jones and Roberts

ENROLLED HOUSE BILL No. 6151

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 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 the title and section 10k (MCL 247.660k), the title as amended by 2004 PA 384 and section 10k as amended by 2006 PA 82, and by adding section 10p.

The People of the State of Michigan enact:

TITLE

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.

Sec. 10k. (1) Transportation purposes as provided in this act include provisions for facilities and services for nonmotorized transportation.

(2) Of the funds allocated from the Michigan transportation fund to the state trunk line fund and to the counties, cities, and villages, a reasonable amount, but not less than 1% of those funds shall be expended for construction or improvement of nonmotorized transportation services and facilities.

(3) An improvement in a road, street, or highway that meets accepted practices or established best practices and facilitates nonmotorized transportation such as the paving of unpaved road shoulders, the widening of lanes, the addition or improvement of a sidewalk in a city or village, or any other appropriate measure shall be considered to be a qualified nonmotorized facility for the purposes of this section.

(4) Units of government need not meet the provisions of this section annually, if the requirements are met as an average over a reasonable period of years, not to exceed 10.

(5) The state transportation department or a county, city, or village receiving money from the Michigan transportation fund annually shall prepare a 5-year program for the improvement of qualified nonmotorized facilities which when implemented would result in the expenditure of an amount equal to at least 1% of the amount distributed to the state transportation department or the county, city, or village, whichever is appropriate, from the Michigan transportation fund in the previous calendar year, multiplied by 10, less the accumulated total expenditures by the state transportation department or the county, city, or village for qualified nonmotorized facilities in the immediately preceding 5 calendar years. A county shall notify the state transportation department and each municipality in the county when the county completes preparation of its 5-year program under this subsection. A city or village shall notify the state transportation department and the county where the city or village is located when the city or village completes preparation of its 5-year program under this subsection. The department shall notify each affected county, city, or village when the department completes preparation of its 5-year program. A city or village receiving money from the Michigan transportation fund shall consult with the state transportation department or county in the city's or village's preparation of the 5-year program under this subsection when planning a nonmotorized project affecting a facility under the jurisdiction of the state transportation department or county. A county receiving money from the Michigan transportation fund shall consult with the state transportation department or a city or village when planning a nonmotorized project affecting a transportation facility under the jurisdiction of the state transportation department or the city or village. The department shall consult with a county, city, or village when planning a nonmotorized project affecting a transportation facility within the county, city, or village.

(6) Facilities for nonmotorized transportation including those that contribute to complete streets as defined in section 10p may be established in conjunction with or separate from already existing highways, roads, and streets and shall be established when a highway, road, or street is being constructed, reconstructed, or relocated, unless:

(a) The cost of establishing the facilities would be disproportionate to the need or probable use.

(b) The establishment of the facilities would be contrary to public safety or state or federal law.

(c) Adequate facilities for nonmotorized transportation already exist in the area.

(d) The previous expenditures and projected expenditures for nonmotorized transportation facilities for the fiscal year exceed 1% of that unit's share of the Michigan transportation fund, in which case additional expenditures shall be discretionary.

(7) The state transportation department may provide information and assistance to county road commissions, cities, and villages on the planning, design, and construction of nonmotorized transportation facilities and services.

Sec. 10p. (1) As used in this section:

(a) "Complete streets" means roadways planned, designed, and constructed to provide appropriate access to all legal users in a manner that promotes safe and efficient movement of people and goods whether by car, truck, transit, assistive device, foot, or bicycle.

(b) "Complete streets policy" means a document that provides guidance for the planning, design, and construction of roadways or an interconnected network of transportation facilities being constructed or reconstructed and designated for a transportation purpose that promotes complete streets and meets all of the following requirements:

(i) Is sensitive to the local context and recognizes that needs vary according to urban, suburban, and rural settings.

(ii) Considers the functional class of the roadway and project costs and allows for appropriate exemptions.

(iii) Considers the varying mobility needs of all legal users of the roadway, of all ages and abilities.

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

(d) "Local road agency" means that term as defined in section 9a.

(e) "Municipality" means a city, village, or township.

(2) The state transportation commission shall do both of the following by not later than 2 years after the effective date of the amendatory act that added this section:

(a) Adopt a complete streets policy for the department.

(b) Develop a model complete streets policy or policies to be made available for use by municipalities and counties.

(3) Before a municipality approves any project in its multiyear capital program that affects a roadway or transportation facility under the jurisdiction of the state transportation department or within or under the jurisdiction of a county or another municipality, it shall consult with the affected agency and agree on how to address the respective complete streets policies, subject to each agency's powers and duties. Before the department submits its multiyear capital plan to the commission or a county road agency approves its multiyear capital plan, for any project that affects a roadway or transportation facility within or under the jurisdiction of a municipality, the department or county road agency shall consult with the municipality and agree on how to address the respective complete streets policies, subject to each agency's powers and duties. Failure to come to an agreement shall not prevent the department from submitting its multiyear capital plan to the commission. This subsection does not apply under any of the following circumstances:

(a) If neither the agency proposing the project nor the affected agency has a complete streets policy.

(b) If the project was included in a municipality's multiyear capital program or the department's or a county's multiyear capital plan on July 1, 2010.

(4) The department may provide assistance to and coordinate with local agencies in developing and implementing complete streets policies. The department shall share expertise in nonmotorized and multimodal transportation planning in the development of trunk line projects within municipal boundaries.

(5) The department, local road agencies, and municipalities may enter into agreements with each other providing for maintenance of transportation facilities constructed to implement a complete streets policy.

(6) A complete streets advisory council is created within the department. The advisory council shall consist of the following members appointed by the governor:

(a) The director of the state transportation department or his or her designee.

(b) The director of the department of community health or his or her designee.

(c) The director of the department of state police or his or her designee.

(d) One individual representing the state transportation commission.

(e) One individual representing environmental organizations.

(f) One individual representing planning organizations.

(g) One individual representing organizations of disabled persons.

(h) One individual representing road commission organizations.

(i) One individual representing public transit users organizations.

(j) One licensed professional engineer or traffic engineer.

(k) One individual representing the Michigan municipal league.

(l) One individual representing the AARP.

(m) One individual representing the league of Michigan bicyclists.

(n) One individual representing a pedestrian organization.

(o) One individual representing the Michigan public transit association.

(p) One individual representing the Michigan townships association.

(q) As nonvoting members, the director of the department of natural resources and environment or his or her designee, the executive director of the Michigan state housing development authority or his or her designee, and the heads of such other state departments and agencies, as the governor considers appropriate, or their designees.

(7) The members first appointed to the advisory council shall be appointed within 60 days after the effective date of this section. Members of the advisory council shall serve for terms of 3 years or until a successor is appointed, whichever is later, except that of the members first appointed 3 shall serve for 1 year, 3 shall serve for 2 years, and 3 shall serve for 3 years. If a vacancy occurs on the advisory council, the governor shall make an appointment for the unexpired term in the same manner as the original appointment. The governor may remove a member of the advisory council for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(8) The first meeting of the advisory council shall be called by the director of the state transportation department. At the first meeting, the advisory council shall elect from among its members a chairperson, vice-chairperson, secretary, and other officers as it considers necessary or appropriate. After the first meeting and before 2018, the advisory council shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by 3 or more members. A majority of the members of the advisory council constitute a quorum for the transaction of business at a meeting of the advisory council. The affirmative vote of a majority of the members are required for official action of the advisory council.

(9) The business that the advisory council may perform shall be conducted at a public meeting of the advisory council held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A writing prepared, owned, used, in the possession of, or retained by the advisory council in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) Members of the advisory council shall serve without compensation. However, members of the advisory council may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the advisory council.

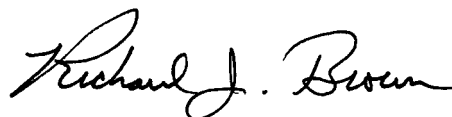
(11) The advisory council shall do all of the following:

(a) Provide education and advice to the state transportation commission, county road commissions, municipalities, interest groups, and the public on the development, implementation, and coordination of complete streets policies.

(b) By December 30, 2011, and each calendar year thereafter, report to the governor, the state transportation commission, and the legislature on the status of complete streets policies in this state. The report shall contain a summary of the advisory council's proceedings, a statement of instances in which the department and a municipality were unable to agree under subsection (3) on a department project affecting a roadway or transportation facility within or under the jurisdiction of the municipality, and any other necessary or useful information and any additional information that may be requested by the governor.

(c) Advise the state transportation commission on the adoption of model policies under subsection (2).

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor