

SUBSTITUTE FOR
HOUSE BILL NO. 4961

A bill to amend 1964 PA 286, entitled

"An act to provide for the organization, powers, and duties of the state transportation commission and the state transportation department; to provide for the appointment, powers, and duties of the state transportation director; to abolish the office of state highway commissioner and the commissioner's advisory board and to transfer their powers and duties; to provide for penalties and remedies; and to repeal certain acts and parts of acts,"

by amending the title and sections 1, 6a, 7, 7a, and 10 (MCL 247.801, 247.806a, 247.807, 247.807a, and 247.810), the title as amended by 1984 PA 398 and section 7a as amended by 1981 PA 122, and by adding sections 7b, 7c, 7d, 7e, 7f, 7g, 7h, and 7i.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE



H03349'09 (H-6)

MRM

1 An act to provide for the organization, powers, and duties of
 2 the state transportation commission and the state transportation
 3 department; to provide for the appointment, powers, and duties of
 4 the state transportation director; to abolish the office of state
 5 highway commissioner and the commissioner's advisory board and to
 6 transfer their powers and duties; **TO PROVIDE FOR PUBLIC**
 7 **TRANSPORTATION FACILITIES; TO PROVIDE FOR THE CREATION OF CERTAIN**
 8 **AUTHORITIES; TO AUTHORIZE PUBLIC-PRIVATE AGREEMENTS RELATING TO**
 9 **RESEARCHING, PLANNING, STUDYING, DESIGNING, DEVELOPING, FINANCING,**
 10 **ACQUIRING, CONSTRUCTING, CHARGING USER FEES, OPERATING, OR**
 11 **MAINTAINING A PUBLIC TRANSPORTATION FACILITY, OR OTHER ARRANGEMENTS**
 12 **FOR THE CREATION AND OPERATION OF PUBLIC TRANSPORTATION FACILITIES**
 13 **THAT MAY BE FINANCED BY USER FEES, CHARGES, AND OTHER REVENUE; TO**
 14 **PROVIDE FOR THE SALE OF BONDS; TO PROVIDE FOR CERTAIN POWERS OF**
 15 **CERTAIN STATE DEPARTMENTS; to provide for penalties and remedies;**
 16 and to repeal ~~certain~~ acts and parts of acts.

17 Sec. 1. As used in this act:

18 (A) ~~(1)~~—"Commission" means the state transportation
 19 commission.

20 (B) "CONCESSIONAIRE" MEANS A PRIVATE ENTITY THAT HAS ENTERED
 21 INTO A PUBLIC-PRIVATE AGREEMENT UNDER SECTION 7B.

22 (C) ~~(2)~~—"Director" means the director of **THE DEPARTMENT OF**
 23 transportation.

24 (D) ~~(3)~~—"Department" means the department of transportation.

25 (E) "INSTRUMENTALITY OF GOVERNMENT" MEANS A PUBLIC ENTITY
 26 CREATED OR EMPOWERED TO CARRY OUT FUNCTIONS COMMONLY CARRIED OUT BY
 27 UNITS OF GOVERNMENT, PUBLIC AGENCIES, OR PUBLIC AUTHORITIES.



1 INSTRUMENTALITY OF GOVERNMENT ADDITIONALLY MEANS THE GOVERNMENT OF
2 CANADA OR A PUBLIC AGENCY OR PUBLIC AUTHORITY CREATED BY THE
3 GOVERNMENT OF CANADA OR ANOTHER STATE OF THE UNITED STATES OR A
4 CORPORATION WITHOUT SHARE CAPITAL CREATED AND EMPOWERED UNDER THE
5 CANADIAN INTERNATIONAL BRIDGES AND TUNNELS ACT TO CARRY OUT
6 FUNCTIONS COMMONLY CARRIED OUT BY THE GOVERNMENT OF CANADA.

7 (F) "PRIVATE ENTITY" MEANS ANY NATURAL PERSON, CORPORATION,
8 GENERAL PARTNERSHIP, LIMITED LIABILITY COMPANY, LIMITED
9 PARTNERSHIP, JOINT VENTURE, BUSINESS TRUST, PUBLIC BENEFIT
10 CORPORATION, NONPROFIT ENTITY, OR OTHER NONGOVERNMENTAL BUSINESS
11 ENTITY.

12 (G) "PUBLIC-PRIVATE AGREEMENT" MEANS AN AGREEMENT BETWEEN A
13 PRIVATE ENTITY AND THE DEPARTMENT OR BETWEEN A PRIVATE ENTITY, THE
14 DEPARTMENT, AND 1 OR MORE OTHER INSTRUMENTALITIES OF GOVERNMENT
15 THAT RELATES TO RESEARCHING, PLANNING, STUDYING, DESIGNING,
16 DEVELOPING, FINANCING, ACQUIRING, CONSTRUCTING, CHARGING USER FEES,
17 OPERATING, OR MAINTAINING A PUBLIC TRANSPORTATION FACILITY, OR ANY
18 COMBINATION OF THOSE ACTIVITIES. PUBLIC-PRIVATE AGREEMENT INCLUDES
19 AN AGREEMENT BETWEEN THE DEPARTMENT AND 1 OR MORE INSTRUMENTALITIES
20 OF GOVERNMENT IF THE AGREEMENT IS RELATED TO A PROJECT THAT HAS OR
21 WILL HAVE AN AGREEMENT BETWEEN THE DEPARTMENT OR AN INSTRUMENTALITY
22 OF GOVERNMENT AND A PRIVATE ENTITY.

23 (H) "PUBLIC TRANSPORTATION FACILITY" MEANS ANY NEW OR EXISTING
24 DOMESTIC OR INTERNATIONAL HIGHWAY, LANE, ROAD, BRIDGE, TUNNEL,
25 OVERPASS, RAMP, INTERCHANGE, FERRY, AIRPORT, VEHICLE PARKING
26 FACILITY, VEHICLE TRANSPORTATION FACILITY, PORT FACILITY, LOCKS
27 FACILITY, RAIL FACILITY, INTERMODAL OR OTHER PUBLIC TRANSIT



1 FACILITY, OR ANY OTHER EQUIPMENT, ROLLING STOCK, SITE, OR FACILITY
 2 USED IN THE TRANSPORTATION OF PERSONS, GOODS, SUBSTANCES, VEHICLES,
 3 INFORMATION, OR MATTER OF ANY KIND, AND ANY BUILDING, STRUCTURE,
 4 PARKING AREA, APPURTENANCE, OR OTHER PROPERTY NECESSARY OR
 5 DESIRABLE FOR THE FACILITY.

6 Sec. 6a. The director may do the following:

7 (a) Organize the department and its work, supervise the work
 8 of the employees AND AGENTS of the department, create, merge, and
 9 abolish organizational divisions within the department, and
 10 transfer or merge functions among those divisions in the interest
 11 of economy and efficiency.

12 (b) Employ personnel necessary to carry out the duties of the
 13 director and the responsibilities of the department subject to
 14 CONTRACTUAL OBLIGATIONS AND laws governing state employment.

15 (c) Delegate to any employee of the department ~~subject to~~
 16 ~~the approval of the commission,~~ any powers vested in the director
 17 or delegated to the director by the commission EXCEPT THE POWER TO
 18 ENTER INTO A PUBLIC-PRIVATE AGREEMENT UNDER SECTION 7B.

19 (d) Establish a program of current and long-range planning for
 20 the transportation systems under the department's jurisdiction AND
 21 PUBLIC TRANSPORTATION FACILITIES OF THE DEPARTMENT.

22 (e) Direct the preparation of budget requests, expenditures,
 23 programs and periodical allotments.

24 (f) Purchase materials, supplies, and equipment. ~~as necessary~~
 25 ~~and proper to carry out the duties of the department as provided by~~
 26 ~~law governing state purchasing.~~

27 (G) PURCHASE SERVICES IN ACCORDANCE WITH APPLICABLE CIVIL



1 SERVICE RULES.

2 (H) ACQUIRE INTERESTS IN REAL AND PERSONAL PROPERTY, INCLUDING
3 BY CONDEMNATION.

4 (I) ~~(g)~~—Dispose of obsolete equipment, surplus supplies and
5 material that cannot be used by the department as provided by law
6 governing the disposal.

7 (J) ~~(h)~~—Do anything necessary and proper to comply fully with
8 the provisions of present or future federal aid acts.

9 (K) ENTER INTO PUBLIC-PRIVATE AGREEMENTS UNDER SECTION 7B
10 SUBJECT TO THE APPROVAL OF THE COMMISSION.

11 (L) ~~(i)~~—Do anything necessary and proper to carry out the
12 duties imposed upon the department by the constitution and other
13 duties as may be imposed by law.

14 Sec. 7. (1) The commission's powers and duties shall include:

15 (a) The ~~awarding~~ APPROVAL FOR AWARD BY THE DEPARTMENT of all
16 contracts for the construction, improvement, and maintenance of the
17 highways and PUBLIC transportation facilities ~~under its~~
18 ~~jurisdiction~~ OF THE DEPARTMENT, as provided by law RESOLUTION OF
19 THE COMMISSION.

20 (b) The establishment of transportation policies for the
21 guidance and direction of the director.

22 (C) THE APPROVAL FOR AWARD BY THE DEPARTMENT OF ALL PUBLIC-
23 PRIVATE AGREEMENTS.

24 (2) The commission may do the following:

25 (a) Delegate to any member of the commission, the director, or
26 any subordinate, any powers, other than the power to establish
27 policy, vested in the commission as it considers necessary and



1 proper, ~~and permit the director to delegate any powers delegated~~
 2 ~~to him or her by the commission~~ EXCEPT FOR THE POWER TO APPROVE
 3 PUBLIC-PRIVATE AGREEMENTS UNDER THIS SECTION.

4 (b) ~~Acquire,~~ AUTHORIZE THE DEPARTMENT TO ACQUIRE, own, and
 5 hold INTERESTS IN real and personal property in the name of ~~the~~
 6 THIS state or the ~~commission~~ DEPARTMENT and TO sell, lease or
 7 otherwise dispose of, or encumber, ANY INTERESTS IN the same in
 8 connection with, and in furtherance of, its duties and the purposes
 9 of this act, SUBJECT TO RESOLUTIONS OF THE COMMISSION.

10 (c) Do anything necessary and proper to carry out the duties
 11 imposed upon it by the constitution and such other duties as may be
 12 imposed by law.

13 (3) THE COMMISSION SHALL CONDUCT A PUBLIC HEARING AT LEAST
 14 ONCE EVERY 5 YEARS TO RECEIVE PUBLIC COMMENT AND INPUT WITH REGARD
 15 TO THEN EXISTING PUBLIC TRANSPORTATION FACILITIES OPERATED UNDER A
 16 PUBLIC-PRIVATE AGREEMENT.

17 Sec. 7a. (1) As used in this section:

18 (a) "Completion" means the date when the construction,
 19 improvement, or maintenance of a bridge, highway, or other
 20 transportation facility is accepted in accordance with the contract
 21 documents, so that the bridge, highway, or other transportation
 22 facility may be used for its intended purpose.

23 (b) "Construction contract" means an agreement between a
 24 contractor and the department for the construction, improvement, or
 25 maintenance of a bridge, highway, or other transportation facility.
 26 CONSTRUCTION CONTRACT DOES NOT INCLUDE A PUBLIC-PRIVATE AGREEMENT.

27 (c) ~~"Contractor"~~ "CONSTRUCTION CONTRACTOR" means an



1 ~~individual, sole proprietorship, partnership, corporation, joint~~
2 ~~venture, or other legal~~ A PERSON OR entity, other than ~~the~~ THIS
3 state, or an agency or department of the state, who is a party to a
4 construction contract.

5 ~~----- (d) "Project" means the specific section 9 of the highway~~
6 ~~construction to be performed under the construction contract.~~

7 (2) A construction contract may provide for partial payments
8 to be made periodically to a CONSTRUCTION contractor. The
9 department may establish specifications regarding the retention of
10 a portion of the total amount earned under the construction
11 contract.

12 (3) At the request of the CONSTRUCTION contractor and upon the
13 approval of the department, the portion retained pursuant to the
14 specifications established under subsection (2) shall be placed in
15 an escrow account pursuant to this section.

16 (4) An escrow agent may be selected by the CONSTRUCTION
17 contractor. For purposes of this section, an escrow agent shall be
18 a state or national bank, a state or federally chartered savings
19 and loan association, or a state or federally chartered credit
20 union whose principal place of business is located in this state.

21 (5) An escrow agreement shall be entered into between the
22 contracting parties and the escrow agent. The escrow agreement
23 shall contain all of the following terms:

24 (a) That the escrow agent shall promptly invest all of the
25 escrowed funds.

26 (b) That the escrow agent shall hold the escrowed funds until
27 receipt of notice from the department. Upon receipt of a notice of



1 release from the department, the escrow agent shall promptly remit
2 the designated portion of escrowed funds to the **CONSTRUCTION**
3 contractor involved in the contract. Upon receipt of a notice of
4 overpayment or default of the contract, the escrow agent shall
5 promptly remit the designated portion of escrowed funds to the
6 department.

7 (c) That the escrow agent is responsible for all investments
8 and money as a result of the deposit of the amount until released
9 from responsibility pursuant to the escrow agreement.

10 (d) That the **CONSTRUCTION** contractor shall pay all expenses
11 regarding the deposit, investment, and administration of the
12 retained amount and all other charges made by the escrow agent.

13 (e) Any other provision agreed to by the contracting parties
14 and the escrow agent necessary or proper for purposes of this
15 section.

16 **SEC. 7B. (1) THE DEPARTMENT MAY ENTER INTO PUBLIC-PRIVATE**
17 **AGREEMENTS AS PROVIDED IN THIS ACT. PUBLIC-PRIVATE AGREEMENTS SHALL**
18 **INCLUDE TERMS DESIGNED TO PROTECT THE PUBLIC INTEREST AND ENSURE**
19 **ACCOUNTABILITY OF A CONCESSIONAIRE TO THE DEPARTMENT OR A PUBLIC**
20 **ENTITY CREATED UNDER MICHIGAN LAW FOR A PUBLIC TRANSPORTATION**
21 **FACILITY IN THIS STATE, WHICHEVER IS APPLICABLE. A PUBLIC-PRIVATE**
22 **AGREEMENT MAY CONTAIN TERMS AND CONDITIONS THAT THE DEPARTMENT MAY**
23 **DETERMINE OR NEGOTIATE TO FACILITATE THE RESEARCHING, PLANNING,**
24 **STUDYING, DESIGNING, DEVELOPING, FINANCING, ACQUIRING,**
25 **CONSTRUCTING, CHARGING USER FEES, GOVERNING, OPERATING, OR**
26 **MAINTAINING OF A PUBLIC TRANSPORTATION FACILITY IN THE PUBLIC**
27 **INTEREST. A PUBLIC TRANSPORTATION FACILITY SHALL BE PUBLICLY OWNED**



1 AND SHALL BE DEDICATED TO THE PUBLIC USE AS A PUBLIC TRANSPORTATION
2 FACILITY AS PROVIDED IN THIS ACT.

3 (2) A PUBLIC-PRIVATE AGREEMENT SHALL PROVIDE FOR THE TERMS OF
4 THE USE AND OPERATION OF A PUBLIC TRANSPORTATION FACILITY BY A
5 CONCESSIONAIRE FOR A PERIOD THE DEPARTMENT DETERMINES IS NECESSARY
6 FOR THE DEVELOPMENT AND FINANCING OF A PUBLIC TRANSPORTATION
7 FACILITY AND THE ECONOMIC FEASIBILITY OF THE PUBLIC-PRIVATE
8 AGREEMENT. THE PUBLIC-PRIVATE AGREEMENT MAY INCLUDE A LEASE,
9 LICENSE, RIGHT OF ENTRY, OR OTHER INSTRUMENT FOR THE PUBLIC
10 TRANSPORTATION FACILITY AS THE DEPARTMENT DETERMINES IS IN THE BEST
11 INTEREST OF THE PUBLIC. THE AGREEMENT MAY PROVIDE FOR AN INITIAL
12 OPERATING TERM NOT EXCEEDING 50 YEARS FROM THE LATER OF COMPLETION
13 OF CONSTRUCTION OR COMMENCEMENT OF COLLECTING USER FEES IF USER
14 FEES ARE COLLECTED UNLESS A LONGER TERM IS REQUIRED FOR THE
15 ECONOMIC FEASIBILITY OF THE PUBLIC-PRIVATE AGREEMENT AS DETERMINED
16 BY THE DEPARTMENT AND APPROVED BY THE COMMISSION. THE AGREEMENT
17 SHALL PROVIDE THAT THE OWNERSHIP OF A PUBLIC TRANSPORTATION
18 FACILITY WITHIN THIS STATE SHALL BE VESTED IN THE DEPARTMENT OR A
19 PUBLIC ENTITY CREATED UNDER MICHIGAN LAW, AND THAT TITLE TO THE
20 PUBLIC TRANSPORTATION FACILITY SHALL NOT BE ENCUMBERED. NO
21 PROVISION OF A PUBLIC-PRIVATE AGREEMENT SHALL ALLOW THE PUBLIC TO
22 BE DEPRIVED OF THE USE AND BENEFIT OF A PUBLIC TRANSPORTATION
23 FACILITY EXCEPT AS NECESSARY TO IMPLEMENT USER FEES OR ANCILLARY
24 CHARGES AUTHORIZED BY THIS SECTION, TO REGULATE THE LEVEL OR
25 CHARACTER OF PERMISSIBLE USES OF THE PUBLIC TRANSPORTATION
26 FACILITY, TO ADDRESS ISSUES OF PUBLIC SAFETY OR SECURITY, OR TO
27 MAINTAIN, REPAIR, OR IMPROVE THE PUBLIC TRANSPORTATION FACILITY. A



1 PUBLIC-PRIVATE AGREEMENT SHALL PROVIDE FOR THE TERMINATION OF THE
2 AGREEMENT. NOTHING IN A PUBLIC-PRIVATE AGREEMENT SHALL PROHIBIT THE
3 DEPARTMENT FROM CONSTRUCTING, OPERATING, AND MAINTAINING ANY
4 TRANSPORTATION PROJECT THAT IS IN THE DEPARTMENT'S LONG-RANGE PLAN
5 IN EFFECT ON THE DATE THAT PROPOSALS ARE SUBMITTED, OR PROHIBIT ANY
6 MUNICIPALITY, COUNTY, OR OTHER LOCAL AGENCY FROM CONSTRUCTING,
7 OPERATING, AND MAINTAINING ANY TRANSPORTATION PROJECT.

8 (3) A PUBLIC-PRIVATE AGREEMENT MAY PROVIDE FOR THE CHARGING
9 AND COLLECTION OF USER FEES AND ANCILLARY CHARGES FOR THE USE OF A
10 PUBLIC TRANSPORTATION FACILITY. EXCEPT AS OTHERWISE PROVIDED IN
11 THIS SUBSECTION, ONCE USER FEES ARE INITIALLY ESTABLISHED, USER
12 FEES AND ANCILLARY CHARGES SHALL NOT BE INCREASED BY MORE THAN THE
13 CUMULATIVE ANNUAL INCREASES IN THE CONSUMER PRICE INDEX, AS
14 PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS IN THE
15 UNITED STATES DEPARTMENT OF LABOR, AND DESIGNATED IN THE PUBLIC-
16 PRIVATE AGREEMENT WITHOUT WRITTEN APPROVAL OF THE DEPARTMENT. USER
17 FEES AND ANCILLARY CHARGES THAT ARE INTENDED BY THE DEPARTMENT TO
18 APPLY TO LANES MANAGED BY THE LEVEL OF USER FEES TO CONTROL OR
19 MANAGE TRAFFIC VOLUME OR FLOW MAY BE INCREASED BY MORE THAN THE
20 CONSUMER PRICE INDEX, AS PUBLISHED BY THE UNITED STATES BUREAU OF
21 LABOR STATISTICS, AND SPECIFIED IN THE PUBLIC-PRIVATE AGREEMENT. IF
22 A USER FAILS TO PAY THE USER FEE BY PRIOR ARRANGEMENT, AND SEPARATE
23 BILLING IS REQUIRED FOR PAYMENT, A REASONABLE ADMINISTRATIVE FEE
24 MAY BE CHARGED. A USER FEE MAY BE IMPOSED ON A HIGHWAY ONLY IF
25 IMPOSED FOR THE USE OF HIGHWAYS CONSTRUCTED AFTER THE EFFECTIVE
26 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, OR THE USE OF
27 HIGHWAYS WITH EXPANDED CAPACITY BEYOND THE HIGHWAY CAPACITY IN



1 PLACE ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
2 SECTION. USER FEES AND ANCILLARY CHARGES IMPOSED FOR THE USE OF A
3 PUBLIC TRANSPORTATION FACILITY IN THIS STATE ARE NOT SUBJECT TO
4 REGULATION BY ANY OTHER GOVERNMENTAL AGENCY. NOTHING IN THIS
5 SECTION SHALL BE CONSTRUED TO ALLOW THE CONVERSION OF ANY LANES
6 EXISTING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
7 THIS SECTION INTO TOLLED OR USER-FEE LANES EXCEPT THAT THE
8 DEPARTMENT MAY DETERMINE WHICH LANE OF AN EXISTING HIGHWAY IS
9 DESIGNATED FOR IMPOSITION OF USER FEES IF CAPACITY OF THAT HIGHWAY
10 IS EXPANDED.

11 (4) COMPENSATION PAID TO THE DEPARTMENT IN CONNECTION WITH A
12 PUBLIC-PRIVATE AGREEMENT INCLUDING THE DEPARTMENT'S PORTION OF USER
13 FEES AND ANCILLARY CHARGES IMPOSED FOR USE OF A PUBLIC
14 TRANSPORTATION FACILITY SHALL BE USED FOR TRANSPORTATION PURPOSES.

15 (5) IN ACCORDANCE WITH THE TERMS OF A PUBLIC-PRIVATE
16 AGREEMENT, THE DEPARTMENT OR AN INSTRUMENTALITY OF GOVERNMENT SHALL
17 OVERSEE THE ACTIVITIES OF A CONCESSIONAIRE CARRYING OUT THE TERMS
18 OF A PUBLIC-PRIVATE AGREEMENT. A PUBLIC-PRIVATE AGREEMENT MAY
19 PROVIDE FOR THE USE OF ARBITRATION, MEDIATION, OR OTHER ALTERNATIVE
20 DISPUTE RESOLUTION MECHANISM FOR THE RESOLUTION OF DISPUTES BETWEEN
21 THE DEPARTMENT AND A CONCESSIONAIRE.

22 (6) THE DEPARTMENT OR OTHER INSTRUMENTALITY OF GOVERNMENT DOES
23 NOT HAVE ANY LIABILITY FOR THE ACTS OR OMISSIONS OF THE
24 CONCESSIONAIRE OR OTHER PARTY TO A PUBLIC-PRIVATE AGREEMENT.

25 (7) A PUBLIC-PRIVATE AGREEMENT MAY PERMIT THE CONDUCT OF
26 COMMERCIAL ACTIVITIES AT A PUBLIC TRANSPORTATION FACILITY IF THE
27 ACTIVITIES ARE RELATED TO THE TRANSPORTATION PURPOSES OF THE



1 FACILITY AND TO THE EXTENT NOT RESTRICTED BY APPLICABLE LAW.

2 (8) EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, A PUBLIC-PRIVATE
3 AGREEMENT FOR A PUBLIC TRANSPORTATION FACILITY SHALL IMPOSE ON THE
4 CONCESSIONAIRE THE SAME REQUIREMENTS OF LAW THAT ARE IMPOSED IN
5 CONTRACTS OF THE DEPARTMENT WHEN IT CONTRACTS DIRECTLY FOR THE
6 CONSTRUCTION OR OPERATION OF A PUBLIC TRANSPORTATION FACILITY. A
7 PUBLIC-PRIVATE AGREEMENT SHALL ESTABLISH THE AMOUNTS FOR WHICH THE
8 CONCESSIONAIRE SHALL POST PAYMENT AND PERFORMANCE BONDS OR OTHER
9 SECURITY AS PROVIDED IN THIS SUBSECTION. A PUBLIC-PRIVATE AGREEMENT
10 MAY AUTHORIZE A CONCESSIONAIRE FOR A PUBLIC TRANSPORTATION FACILITY
11 TO PROVIDE A LETTER OF CREDIT IN LIEU OF A PAYMENT OR PERFORMANCE
12 BOND. IF THE DEPARTMENT DETERMINES THAT BONDS OR LETTERS OF CREDIT
13 ARE NOT REASONABLY AVAILABLE IN SUFFICIENT AMOUNTS, THE DEPARTMENT
14 MAY ACCEPT ANOTHER COMMERCIALY REASONABLE FORM OF SECURITY,
15 INCLUDING PARENT CORPORATION GUARANTEES, TO SUPPLEMENT AVAILABLE
16 PAYMENT BONDS, PERFORMANCE BONDS, OR LETTERS OF CREDIT. THE
17 DEPARTMENT SHALL REQUIRE THE POSTING OF SUFFICIENT SECURITY TO
18 FULFILL THE PURPOSES OF A PAYMENT AND PERFORMANCE BOND. IN LIEU OF
19 POSTING BY THE CONCESSIONAIRE, OR IN SUPPLEMENTATION OF THAT
20 POSTING, THE DEPARTMENT MAY ACCEPT BONDS, LETTERS OF CREDIT, AND
21 OTHER SECURITY FROM ENTITIES OTHER THAN THE CONCESSIONAIRE SO LONG
22 AS THE PURPOSES OF A PAYMENT AND PERFORMANCE BOND ARE FULFILLED.

23 (9) THE DEPARTMENT MAY MAKE AND ENTER INTO ALL CONTRACTS AND
24 AGREEMENTS AND TAKE ANY OTHER ACTION NECESSARY OR INCIDENTAL TO THE
25 PERFORMANCE OF ITS DUTIES AND THE EXECUTION OF ITS POWERS UNDER
26 THIS ACT AND A PUBLIC-PRIVATE AGREEMENT.

27 (10) FOR PUBLIC-PRIVATE AGREEMENTS THAT INCLUDE AN OPERATIONS



1 PHASE, THE PUBLIC-PRIVATE AGREEMENT SHALL REQUIRE THAT THE PUBLIC
2 TRANSPORTATION FACILITY REVERT FROM THE CONCESSIONAIRE TO THE
3 DEPARTMENT AT THE END OF THE TERM OF THE PUBLIC-PRIVATE AGREEMENT
4 IN A CONDITION SPECIFIED BY THE DEPARTMENT.

5 (11) THE PUBLIC-PRIVATE AGREEMENT SHALL INCLUDE PROVISIONS
6 THAT ADDRESS THE DEPARTMENT'S RIGHTS TO SHARE IN REFINANCING GAINS
7 RECEIVED BY THE CONCESSIONAIRE UNDER THE PUBLIC-PRIVATE AGREEMENT.

8 (12) THE PUBLIC-PRIVATE AGREEMENT SHALL INCLUDE PROVISIONS
9 THAT SPECIFY THE RESTRICTIONS IMPOSED ON THE ABILITY OF THE
10 CONCESSIONAIRE TO SELL OR TRANSFER ITS INTEREST IN THE PUBLIC-
11 PRIVATE AGREEMENT WITHOUT THE CONSENT OF THE DEPARTMENT.

12 (13) A PUBLIC-PRIVATE AGREEMENT SHALL NOT DELEGATE THE POWER
13 TO CONDEMN PROPERTY TO THE CONCESSIONAIRE. ALL RIGHT OF WAY
14 ACQUIRED THROUGH CONDEMNATION THAT IS USED FOR A PUBLIC
15 TRANSPORTATION FACILITY SHALL BE AND REMAIN PUBLICLY OWNED DURING
16 THE TERM OF A PUBLIC-PRIVATE AGREEMENT.

17 (14) FOR ANY INTERNATIONAL BRIDGE CROSSING THAT DOES NOT EXIST
18 AS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
19 SECTION, A PUBLIC-PRIVATE AGREEMENT SHALL INCLUDE RISK ALLOCATION
20 PROVISIONS SPECIFYING THE RISK ASSUMED BY THE CONCESSIONAIRE
21 RELATED TO THE PUBLIC TRANSPORTATION FACILITY, INCLUDING THE RISK
22 RELATING TO COST OVERRUNS AND, AS APPLICABLE, REVENUE SHORTFALLS.

23 SEC. 7C. UPON APPROVAL BY THE COMMISSION OF A RESOLUTION, THE
24 DEPARTMENT MAY CREATE PUBLIC TRANSPORTATION AUTHORITIES AS SEPARATE
25 LEGAL ENTITIES WITHIN THE DEPARTMENT THAT MAY EXERCISE THE POWERS
26 OF THE DEPARTMENT IN REGARD TO PUBLIC-PRIVATE AGREEMENTS UNDER THIS
27 ACT, TO THE EXTENT AUTHORIZED BY AN AGREEMENT BETWEEN THE



1 DEPARTMENT AND THE PUBLIC TRANSPORTATION AUTHORITY. A PUBLIC
2 TRANSPORTATION AUTHORITY IS AN INSTRUMENTALITY OF GOVERNMENT THAT
3 MAY SUE AND BE SUED AND ENTER INTO CONTRACTS, INCLUDING PUBLIC-
4 PRIVATE AGREEMENTS, TO THE EXTENT AUTHORIZED BY AN AGREEMENT WITH
5 THE DEPARTMENT. THE DEPARTMENT IS NOT LIABLE FOR THE ACTS OR
6 OMISSIONS OF A PUBLIC TRANSPORTATION AUTHORITY, EXCEPT TO THE
7 EXTENT EXPRESSLY AUTHORIZED IN AN AGREEMENT BETWEEN A PUBLIC
8 TRANSPORTATION AUTHORITY AND THE DEPARTMENT. EMPLOYEES OF A PUBLIC
9 TRANSPORTATION AUTHORITY ARE EMPLOYEES OF THIS STATE, AND THE
10 AUTHORITY SHALL COMPLY WITH THE RULES AND REGULATIONS OF THE CIVIL
11 SERVICE COMMISSION. A PUBLIC TRANSPORTATION AUTHORITY IS AN AGENCY
12 OF THE STATE ENTITLED TO GOVERNMENTAL IMMUNITY UNDER 1964 PA 170,
13 MCL 691.1401 TO 691.1419. THE DEPARTMENT AND A PUBLIC
14 TRANSPORTATION AUTHORITY SHALL COMPLY WITH ALL APPLICABLE STATE AND
15 FEDERAL LAWS AND REGULATIONS, INCLUDING, BUT NOT LIMITED TO,
16 APPLICABLE ENVIRONMENTAL LAWS AND REGULATIONS.

17 SEC. 7D. (1) THE DEPARTMENT MAY SOLICIT PROPOSALS OR RECEIVE
18 UNSOLICITED PROPOSALS FOR A PUBLIC-PRIVATE AGREEMENT AND MAY CHARGE
19 AND USE FEES TO OFFSET THE ADMINISTRATIVE COSTS OF RECEIVING AND
20 EVALUATING PROPOSALS. BEFORE RECEIVING A PROPOSAL, THE DEPARTMENT
21 MAY AGREE TO REIMBURSE A PRIVATE ENTITY FOR DESIGNATED COSTS
22 INCURRED IN THE PREPARATION AND PRESENTATION OF A PROPOSAL IN
23 RETURN FOR THE RIGHT TO USE ANY WORK PRODUCT CONTAINED IN THE
24 PROPOSAL, INCLUDING, BUT NOT LIMITED TO, THE TECHNOLOGIES, METHODS,
25 PROCESSES, AND INFORMATION CONTAINED IN THE MATERIAL SUBMITTED IN
26 CONNECTION WITH THE PROPOSAL. THE DEPARTMENT HAS THE SOLE
27 DISCRETION WHETHER, AND TO WHAT EXTENT, TO CONSIDER AN UNSOLICITED



1 PROPOSAL. BEFORE ENTERING INTO ANY PUBLIC-PRIVATE AGREEMENT FOR A
2 PUBLIC TRANSPORTATION FACILITY PROPOSED BY AN UNSOLICITED PROPOSAL,
3 THE DEPARTMENT MAY AMEND THE PROPOSAL AND SHALL SOLICIT COMPETING
4 PROPOSALS AND ENTER INTO ANY PUBLIC-PRIVATE AGREEMENT USING THE
5 CRITERIA IN SUBSECTION (5).

6 (2) IN SOLICITING OR SELECTING A PRIVATE ENTITY WITH WHICH TO
7 ENTER INTO A PUBLIC-PRIVATE AGREEMENT, THE DEPARTMENT SHALL UTILIZE
8 1 OR MORE OF THE FOLLOWING PROCUREMENT APPROACHES:

9 (A) SEALED BIDDING.

10 (B) SELECTION OF PROPOSALS, WITH OR WITHOUT NEGOTIATIONS,
11 BASED ON QUALIFICATIONS, DEVELOPMENT PROPOSALS, TECHNICAL
12 PROPOSALS, FINANCIAL PROPOSALS, BEST VALUE, OR ANY COMBINATION OF
13 THEM.

14 (C) ANY COMPETITIVE SELECTION PROCESS THAT THE DEPARTMENT
15 DETERMINES TO BE APPROPRIATE OR REASONABLE.

16 (3) THE DEPARTMENT SHALL SELECT A PRIVATE ENTITY OR ENTITIES
17 FOR PARTICIPATION IN A PUBLIC-PRIVATE AGREEMENT USING A COMPETITIVE
18 SELECTION PROCESS TO THE EXTENT PRACTICABLE.

19 (4) BEFORE SELECTING A PROJECT, THE DEPARTMENT SHALL CONSIDER
20 ALL OF THE FOLLOWING FACTORS:

21 (A) THE ABILITY OF THE PUBLIC TRANSPORTATION FACILITY TO
22 IMPROVE SAFETY OR OPERATIONS, REDUCE CONGESTION, REDUCE TRAVEL
23 TIMES, INCREASE CAPACITY, ENHANCE ENVIRONMENTAL QUALITY, PROMOTE
24 ECONOMIC DEVELOPMENT, OR ANY COMBINATION OF THESE OR SIMILAR
25 FACTORS.

26 (B) BENEFITS TO THE PUBLIC.

27 (C) ABILITY TO INCREASE FEDERAL OR OTHER NONSTATE REVENUE TO



1 THIS STATE.

2 (5) THE DEPARTMENT SHALL CONSIDER ALL OF THE FOLLOWING FACTORS
3 IN EVALUATING AND SELECTING A BID OR PROPOSAL TO ENTER INTO A
4 PUBLIC-PRIVATE AGREEMENT:

5 (A) THE PROPOSED COST OF AND FINANCIAL PLAN FOR THE PUBLIC
6 TRANSPORTATION FACILITY.

7 (B) THE GENERAL REPUTATION, QUALIFICATIONS, INDUSTRY
8 EXPERIENCE, SAFETY RECORD, LABOR RECORD, AND FINANCIAL CAPACITY OF
9 THE PRIVATE ENTITY.

10 (C) THE PROPOSED DESIGN, OPERATION, AND FEASIBILITY OF THE
11 PUBLIC TRANSPORTATION FACILITY.

12 (D) TO THE EXTENT PERMITTED BY FEDERAL LAW, THE PROPOSED PLAN
13 OF THE PRIVATE ENTITY TO HIRE LEGAL UNITED STATES RESIDENTS AND
14 CITIZENS FOR WORK RELATING TO THE PUBLIC TRANSPORTATION FACILITY IN
15 THIS STATE.

16 (E) ANY OTHER CRITERIA, INCLUDING PREQUALIFICATION UNDER RULES
17 PROMULGATED BY THE DEPARTMENT OR THROUGH COMPLIANCE WITH 1933 PA
18 170, MCL 123.501 TO 123.508, THAT THE DEPARTMENT CONSIDERS
19 NECESSARY OR APPROPRIATE IN THE BEST INTERESTS OF THIS STATE OR THE
20 PEOPLE OF THIS STATE.

21 (6) THE DEPARTMENT MAY SELECT MULTIPLE PRIVATE ENTITIES WITH
22 WHICH TO ENTER INTO PUBLIC-PRIVATE AGREEMENTS FOR A PUBLIC
23 TRANSPORTATION FACILITY IF IT IS DETERMINED BY THE DEPARTMENT TO BE
24 IN THE PUBLIC INTEREST TO DO SO.

25 (7) THE DEPARTMENT MAY PROMISE TO KEEP TRADE SECRETS OR
26 PROPRIETARY COMMERCIAL OR FINANCIAL INFORMATION PROVIDED BY A
27 PRIVATE ENTITY CONFIDENTIAL ONLY FOR PURPOSES OF SEEKING OR



1 ENTERING INTO A PUBLIC PRIVATE AGREEMENT. UPON RECEIPT OF A
2 SUFFICIENTLY DETAILED REQUEST BY A PRIVATE ENTITY, THE DEPARTMENT
3 SHALL PROVIDE A DESCRIPTION OF THE INFORMATION TO WHICH ITS PROMISE
4 OF CONFIDENTIALITY WILL EXTEND. SUBMISSION OF A SOLICITED OR
5 UNSOLICITED PROPOSAL CONSTITUTES CONSENT FOR THE DEPARTMENT TO USE
6 THE INFORMATION AND IDEAS PROVIDED BY A PRIVATE ENTITY FOR A
7 TRANSPORTATION FACILITY OR FOR PURPOSES OF SEEKING OR ENTERING INTO
8 A PUBLIC-PRIVATE AGREEMENT, INCLUDING TO SOLICIT COMPETING
9 PROPOSALS UNLESS THE DEPARTMENT AGREES OTHERWISE IN A WRITING
10 EXECUTED BY THE DEPARTMENT BEFORE THE SUBMISSION.

11 (8) NO ACTION SHALL LIE AGAINST THE DEPARTMENT OR ANOTHER
12 PERSON ACTING IN ACCORDANCE WITH A PUBLIC-PRIVATE AGREEMENT FOR THE
13 USE OF IDEAS AND INFORMATION PROVIDED BY A PRIVATE ENTITY FOR
14 PURPOSES OF SEEKING OR ENTERING INTO A PUBLIC-PRIVATE AGREEMENT.

15 (9) THE DEPARTMENT SHALL PERFORM A COST-BENEFIT ANALYSIS
16 INCLUDING A RISK TRANSFER OR ALLOCATION ASSESSMENT TO DETERMINE
17 WHETHER A PROPOSED PUBLIC-PRIVATE AGREEMENT IS THE MOST
18 ECONOMICALLY BENEFICIAL WAY FOR THE STATE TO PERFORM THE PROPOSED
19 PROJECT. THE DEPARTMENT SHALL CHOOSE AN APPROPRIATE METHODOLOGY TO
20 UTILIZE IN THE COST-BENEFIT ANALYSIS AND SHALL STATE THE
21 ASSUMPTIONS USED IN THE COST-BENEFIT ANALYSIS. THE COST-BENEFIT
22 ANALYSIS SHALL INCLUDE ALL NECESSARY MONITORING AND OVERSIGHT OF
23 ANY PRIVATE ENTITY BY A PUBLIC ENTITY. THE DEPARTMENT SHALL PUBLISH
24 THE RESULTS OF THE ANALYSIS ON ITS WEBSITE. THE COMMISSION SHALL
25 NOT APPROVE A PUBLIC-PRIVATE AGREEMENT UNDER SECTION 7(1) (C) UNLESS
26 IT DETERMINES THAT THE PUBLIC-PRIVATE AGREEMENT IS THE MOST
27 ECONOMICALLY BENEFICIAL WAY FOR THE STATE TO PERFORM THE PROJECT,



1 INCLUDING CONSIDERATION OF WHETHER THE AGREEMENT REDUCES RISK TO
2 THE STATE, INCLUDING FINANCIAL RISKS, COMPARED TO OTHER OPTIONS AND
3 FINANCING ARRANGEMENTS.

4 SEC. 7E. (1) WHETHER USED BY THE DEPARTMENT, ANOTHER
5 INSTRUMENTALITY OF GOVERNMENT, OR A PRIVATE ENTITY UNDER A PUBLIC-
6 PRIVATE AGREEMENT, A PUBLIC TRANSPORTATION FACILITY, INCLUDING, BUT
7 NOT LIMITED TO, REAL PROPERTY AND TANGIBLE PERSONAL PROPERTY USED
8 EXCLUSIVELY WITH A PUBLIC TRANSPORTATION FACILITY, THAT IS OWNED BY
9 THE DEPARTMENT OR ANOTHER INSTRUMENTALITY OF GOVERNMENT IS EXEMPT
10 FROM ALL AD VALOREM PROPERTY TAXES AND ALL ASSESSMENTS LEVIED
11 AGAINST PROPERTY BY THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS
12 STATE TO THE SAME EXTENT THAT THE PROPERTY OWNED BY THE DEPARTMENT
13 OR INSTRUMENTALITY OF GOVERNMENT WOULD OTHERWISE BE EXEMPT FROM AD
14 VALOREM PROPERTY TAXES AND ASSESSMENTS.

15 (2) NO PERSON SHALL BY REASON OF THE USE OF MOTOR FUEL WITHIN
16 THE LIMITS OF A PUBLIC TRANSPORTATION FACILITY AUTHORIZED BY A
17 PUBLIC-PRIVATE AGREEMENT BE EXEMPT FROM OR ELIGIBLE FOR A REFUND OF
18 A MOTOR FUEL TAX IMPOSED BY THIS STATE OR A POLITICAL SUBDIVISION
19 OF THIS STATE.

20 (3) SUBJECT TO APPROVAL FROM THE COMMISSION AND COMPLIANCE
21 WITH APPLICABLE FEDERAL LAWS, THE DEPARTMENT HAS EXCLUSIVE
22 AUTHORITY TO DETERMINE WHERE AND WHETHER TO ESTABLISH A PUBLIC
23 TRANSPORTATION FACILITY AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT
24 AND THE SCOPE AND NATURE OF THE FACILITY.

25 (4) REVENUE ATTRIBUTABLE TO A PUBLIC TRANSPORTATION FACILITY
26 AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT THAT IS PAYABLE TO THE
27 DEPARTMENT SHALL BE DEPOSITED IN THE STATE TRUNK LINE FUND,



1 COMPREHENSIVE TRANSPORTATION FUND, OR AERONAUTICS FUND, AS
2 INDICATED BY THE NATURE OF THE PUBLIC TRANSPORTATION FACILITY AND
3 PROVIDED IN THE PUBLIC-PRIVATE AGREEMENT.

4 SEC. 7F. (1) THE DEPARTMENT MAY ISSUE AND SELL BONDS OR NOTES
5 FOR THE PURPOSE OF PROVIDING FUNDS TO CARRY OUT THE PROVISIONS OF
6 THIS ACT WITH RESPECT TO THE DEVELOPMENT, ACQUISITION,
7 CONSTRUCTION, FINANCING, MAINTENANCE, OR OPERATION OF A PUBLIC
8 TRANSPORTATION FACILITY PROVIDED FOR BY A PUBLIC-PRIVATE AGREEMENT
9 OR THE REFUNDING OF ANY BONDS OR NOTES, TOGETHER WITH ANY COSTS
10 ASSOCIATED WITH THE TRANSACTION.

11 (2) ANY BOND OR NOTE ISSUED UNDER SUBSECTION (1) DOES NOT
12 CONSTITUTE A PLEDGE OF THE FAITH AND CREDIT OR INDEBTEDNESS OF THIS
13 STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE WITHIN THE MEANING
14 OR APPLICATION OF ANY CONSTITUTIONAL PROVISION OR LIMITATION. A
15 BOND OR NOTE ISSUED UNDER SUBSECTION (1) IS PAYABLE SOLELY AS TO
16 BOTH PRINCIPAL AND INTEREST FROM REVENUES GENERATED FROM USE OF THE
17 PUBLIC TRANSPORTATION FACILITY AUTHORIZED BY THE PUBLIC-PRIVATE
18 AGREEMENT, THE PROCEEDS OF BONDS OR NOTES SOLD TO FINANCE THE
19 REFUNDING OF THE OUTSTANDING BONDS OR NOTES, IF ANY, OR INVESTMENT
20 EARNINGS ON THE PROCEEDS OF THE BONDS OR NOTES.

21 (3) THE DEPARTMENT MAY RETAIN SERVICES AND ENTER INTO ANY
22 CONTRACTS THAT ARE NECESSARY OR USEFUL FOR THE ISSUANCE AND SALE OF
23 BONDS, NOTES, OR OTHER FINANCIAL INSTRUMENTS UNDER THIS SECTION.

24 (4) FOR THE PURPOSE OF FINANCING A PUBLIC TRANSPORTATION
25 FACILITY, THE DEPARTMENT, ANOTHER INSTRUMENTALITY OF GOVERNMENT, OR
26 THE CONCESSIONAIRE MAY APPLY FOR, OBTAIN, ISSUE, AND USE PRIVATE
27 ACTIVITY BONDS OR OTHER FINANCIAL INSTRUMENTS AVAILABLE UNDER ANY



1 STATE OR FEDERAL LAW OR PROGRAM. AN INSTRUMENTALITY OF GOVERNMENT
2 MAY ACT AS A CONDUIT ISSUER AND TRANSFER THE PROCEEDS OF PRIVATE
3 ACTIVITY BONDS OR SIMILAR FINANCIAL INSTRUMENTS TO A CONCESSIONAIRE
4 IF AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT. THE BONDS OR
5 INSTRUMENTS SHALL NOT PLEDGE THE FULL FAITH AND CREDIT OF THIS
6 STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE AND SHALL NOT BE A
7 DEBT OF THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE.

8 (5) THIS SECTION DOES NOT LIMIT AN INSTRUMENTALITY OF
9 GOVERNMENT'S AUTHORITY TO ISSUE BONDS OR OTHER FINANCIAL
10 INSTRUMENTS FOR TRANSPORTATION PROJECTS UNDER OTHER LAWS. A PUBLIC
11 TRANSPORTATION FACILITY MAY BE FINANCED WITH FUNDS PROVIDED OR
12 RAISED UNDER OTHER LAWS, INCLUDING, BUT NOT LIMITED TO, LAWS
13 AUTHORIZING THE SALE OF BONDS.

14 SEC. 7G. (1) THE DEPARTMENT MAY APPLY FOR AND ACCEPT FROM THE
15 UNITED STATES OR ANY OF ITS AGENCIES, INCLUDING, BUT NOT LIMITED
16 TO, A FEDERAL INFRASTRUCTURE BANK, FUNDS THAT ARE AVAILABLE TO THE
17 DEPARTMENT FOR CARRYING OUT A PUBLIC-PRIVATE AGREEMENT, WHETHER THE
18 FUNDS ARE MADE AVAILABLE BY GRANT, LOAN, LINE OF CREDIT, LOAN
19 GUARANTEE, OR OTHER FINANCIAL ASSISTANCE.

20 (2) THE DEPARTMENT MAY ASSENT TO ANY FEDERAL REQUIREMENTS,
21 CONDITIONS, OR TERMS OF ANY FEDERAL FUNDING ACCEPTED UNDER THIS
22 SECTION OTHER THAN A PLEDGE OF THE FAITH AND CREDIT OF THIS STATE
23 OR ANY POLITICAL SUBDIVISION OF THIS STATE OR ANOTHER REQUIREMENT,
24 CONDITION, OR TERM PROHIBITED BY THE STATE CONSTITUTION OF 1963.

25 (3) THE DEPARTMENT MAY ENTER INTO AGREEMENTS OR OTHER
26 ARRANGEMENTS WITH THE UNITED STATES OR ANY OF ITS AGENCIES AS MAY
27 BE NECESSARY FOR IMPLEMENTING A PUBLIC-PRIVATE AGREEMENT.



1 (4) THE DEPARTMENT MAY ACCEPT FROM ANY SOURCE, AND USE FOR
2 SUPPORTING A PUBLIC TRANSPORTATION FACILITY AUTHORIZED BY A PUBLIC-
3 PRIVATE AGREEMENT, ANY GRANT, DONATION, GIFT, OR OTHER FORM OF
4 CONVEYANCE OF LAND, MONEY, OTHER REAL OR PERSONAL PROPERTY, OR
5 OTHER ITEM OF VALUE. A PUBLIC TRANSPORTATION FACILITY AUTHORIZED BY
6 A PUBLIC-PRIVATE AGREEMENT MAY BE FINANCED IN WHOLE OR IN PART BY
7 CONTRIBUTION OF ANY FUNDS OR PROPERTY MADE BY ANY PERSON OR ENTITY.

8 (5) THE DEPARTMENT MAY COMBINE FEDERAL, STATE, LOCAL, AND
9 PRIVATE FUNDS TO FINANCE A PUBLIC TRANSPORTATION FACILITY
10 AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT.

11 (6) FOR ANY INTERNATIONAL BRIDGE CROSSING THAT DOES NOT EXIST
12 AS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
13 SECTION, A PUBLIC-PRIVATE AGREEMENT SHALL NOT REQUIRE A PLEDGE OF
14 THE FULL FAITH AND CREDIT OF THIS STATE OR OF ANY POLITICAL
15 SUBDIVISION OF THIS STATE.

16 (7) FOR ANY INTERNATIONAL BRIDGE CROSSING THAT DOES NOT EXIST
17 AS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
18 SECTION, PRIOR TO RELEASING A REQUEST FOR PROPOSALS FOR A PUBLIC-
19 PRIVATE AGREEMENT, THE DEPARTMENT SHALL ONLY ACQUIRE PROPERTY
20 NEEDED FOR THE INTERNATIONAL BRIDGE CROSSING IN THIS STATE THROUGH
21 VOLUNTARY ACQUISITIONS FROM WILLING SELLERS EXCEPT THAT THE
22 DEPARTMENT MAY EXERCISE ITS POWER OF EMINENT DOMAIN TO ACQUIRE
23 PROPERTY IF IT GIVES NOTICE TO THE LEGISLATURE AT LEAST 30 DAYS
24 BEFORE FILING CONDEMNATION PROCEEDINGS.

25 SEC. 7H. (1) ALL LAW ENFORCEMENT OFFICERS OF THIS STATE AND
26 LOCAL UNITS OF GOVERNMENT IN WHICH ALL OR PART OF A PUBLIC
27 TRANSPORTATION FACILITY AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT IS



1 LOCATED SHALL HAVE THE SAME POWERS AND JURISDICTION WITHIN THE
2 LIMITS OF THE PUBLIC TRANSPORTATION FACILITY AS THEY HAVE IN THEIR
3 RESPECTIVE AREAS OF JURISDICTION TO ENFORCE TRAFFIC AND MOTOR
4 VEHICLE LAWS. AUTHORIZED EMERGENCY VEHICLES AND OCCUPANTS OF
5 AUTHORIZED EMERGENCY VEHICLES SHALL BE AFFORDED ACCESS TO A PUBLIC
6 TRANSPORTATION FACILITY WHILE IN THE PERFORMANCE OF AN OFFICIAL
7 DUTY WITHOUT THE PAYMENT OF A USER FEE OR OTHER CHARGE. AS USED IN
8 THIS SUBSECTION, "AUTHORIZED EMERGENCY VEHICLE" MEANS THAT TERM AS
9 DEFINED IN SECTION 2 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL
10 257.2.

11 (2) PUNISHMENT FOR VIOLATIONS OF TRAFFIC AND MOTOR VEHICLE
12 LAWS WITHIN THE LIMITS OF A PUBLIC TRANSPORTATION FACILITY
13 AUTHORIZED BY A PUBLIC-PRIVATE AGREEMENT SHALL BE AS GENERALLY
14 PRESCRIBED BY LAW.

15 (3) THE PUBLIC-PRIVATE AGREEMENT SHALL INCLUDE PROVISIONS
16 RELATING TO THE PERMITTED RETENTION AND USE BY THE CONCESSIONAIRE
17 OF COLLECTED DATA AND CUSTOMER INFORMATION AND SHALL PROHIBIT THE
18 SALE OR USE OF SUCH DATA AND INFORMATION FOR COMMERCIAL PURPOSES
19 UNRELATED TO THE USE OF THE PUBLIC TRANSPORTATION FACILITY.
20 MEASURES AND DEVICES TO RECORD USERS OF PUBLIC TRANSPORTATION
21 FACILITIES MAY BE UTILIZED TO FACILITATE THE COLLECTION OF USER
22 FEES. A RECORDING OF THE USE OF A PUBLIC TRANSPORTATION FACILITY
23 SHALL NOT BE USED OR DISCLOSED EXCEPT UNDER 1 OR MORE OF THE
24 FOLLOWING CIRCUMSTANCES:

25 (A) IN ENFORCEMENT AND COLLECTION PROCEEDINGS UNDER THIS ACT
26 TO ESTABLISH THE USE AND FAILURE TO PAY THE USER FEE IMPOSED FOR
27 USE OF THAT PUBLIC TRANSPORTATION FACILITY.



1 (B) USE BY A POLICE OFFICER WHILE LAWFULLY ENFORCING HIS OR
2 HER DUTIES AS A POLICE OFFICER.

3 (C) USE TO CREATE STATISTICAL REPORTS ON USE OF A PUBLIC
4 TRANSPORTATION FACILITY THAT DO NOT DISCLOSE THE IDENTITY OF
5 SPECIFIC USERS OF THE FACILITY.

6 (4) A PERSON WHO FAILS TO PAY A USER FEE IMPOSED FOR USE OF A
7 PUBLIC TRANSPORTATION FACILITY IS RESPONSIBLE FOR A CIVIL
8 INFRACTION AND SHALL PAY \$50.00 AS A CIVIL FINE. IN ADDITION, THE
9 PERSON SHALL PAY THE OPERATOR OF THE PUBLIC TRANSPORTATION FACILITY
10 2 TIMES THE AMOUNT OF THE USER FEE. IF THAT SUM REMAINS UNPAID TO
11 THE OPERATOR OF THE PUBLIC TRANSPORTATION FACILITY FOR 180 DAYS
12 AFTER THE PERSON'S USE OF THE PUBLIC TRANSPORTATION FACILITY, THE
13 DEPARTMENT, AN AUTHORITY, AN INSTRUMENTALITY OF GOVERNMENT, OR A
14 PRIVATE ENTITY AUTHORIZED TO DO SO BY THE DEPARTMENT, MAY BRING A
15 CIVIL ACTION AGAINST THE PERSON TO COLLECT THE UNPAID CHARGES IN A
16 COURT HAVING JURISDICTION. IF THE CIVIL ACTION RESULTS IN A
17 JUDGMENT FOR UNPAID CHARGES, THE DEFENDANT SHALL ALSO BE REQUIRED
18 TO REIMBURSE THE PLAINTIFF FOR ALL FILING FEES INCURRED BY THE
19 PLAINTIFF PLUS \$500.00 IN COMPENSATION FOR THE COSTS OF BRINGING
20 THE CIVIL ACTION.

21 (5) DURING THE PERIOD THAT A PERSON OWES AND HAS FAILED TO PAY
22 CHARGES, FEES, AND COSTS UNDER SUBSECTION (3) OR (4), THE PERSON
23 AND A MOTOR VEHICLE USED BY THE PERSON MAY BE BARRED FROM USING THE
24 PUBLIC TRANSPORTATION FACILITY.

25 (6) EXCEPT AS PROVIDED IN SECTION 675B OF THE MICHIGAN VEHICLE
26 CODE, 1949 PA 300, MCL 257.675B, INVOLVING LEASED VEHICLES, PROOF
27 THAT A PARTICULAR VEHICLE USED A PUBLIC TRANSPORTATION FACILITY



1 WITHOUT PAYMENT OF THE APPLICABLE USER FEE, TOGETHER WITH PROOF
2 FROM THE DEPARTMENT OF STATE OF THE NAME OF THE VEHICLE'S
3 REGISTERED OWNER, CREATES A PRESUMPTION THAT THE VEHICLE'S
4 REGISTERED OWNER WAS THE PERSON WHO USED THE PUBLIC TRANSPORTATION
5 FACILITY, WHO FAILED TO PAY THE USER FEE, AND WHO IS PRIMA FACIE
6 RESPONSIBLE FOR THE UNPAID CHARGES. IF THE CONDITIONS OF SECTION
7 675B OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.675B, ARE
8 SATISFIED, THE LESSEE OR RENTER OF A MOTOR VEHICLE AND NOT THE
9 LEASED VEHICLE OWNER IS THE PERSON LIABLE UNDER THIS SECTION, FOR
10 WHICH PURPOSES THE ENTITY THAT GIVES NOTICE OF UNPAID CHARGES TO
11 THE VEHICLE'S REGISTERED OWNER SHALL BE GIVEN THE NOTICE THAT WOULD
12 OTHERWISE BE GIVEN TO THE CLERK OF THE COURT OR PARKING VIOLATIONS
13 BUREAU UNDER SECTION 675B OF THE MICHIGAN VEHICLE CODE, 1949 PA
14 300, MCL 257.675B.

15 (7) THE OWNER OF A VEHICLE ALLEGED TO HAVE USED A PUBLIC
16 TRANSPORTATION FACILITY WITHOUT PAYING AN APPLICABLE USER FEE MAY
17 ASSERT AS AN AFFIRMATIVE DEFENSE THAT THE VEHICLE IN QUESTION, AT
18 THE TIME OF THE USE OF THE PUBLIC TRANSPORTATION FACILITY, WAS IN
19 THE POSSESSION OF A PERSON WHOM THE OWNER HAD NOT KNOWINGLY
20 PERMITTED TO OPERATE THE VEHICLE.

21 SEC. 7I. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF
22 FEDERAL FUNDS ARE USED FOR A PUBLIC TRANSPORTATION FACILITY, THE
23 APPLICABLE FEDERAL LAW OR RULES ARE CONTROLLING IN THE EVENT OF A
24 CONFLICT WITH THIS ACT.

25 Sec. 10. Documents and instruments of any kind authorized to
26 be issued or executed by the commission shall be issued or executed
27 in the name of the "Michigan state highway-TRANSPORTATION



1 commission" by the ~~chairman~~ **CHAIRPERSON** of the commission, or to
2 the extent expressly authorized by bylaw or resolution, by the vice
3 ~~chairman~~ **CHAIRPERSON**, other member, **THE** director, or other
4 subordinate. Documents or instruments ~~which~~ **THAT** convey interests
5 or rights in land shall be executed by the ~~chairman or vice~~
6 ~~chairman and the director or a deputy director~~ **AN EMPLOYEE OF THE**
7 **DEPARTMENT** designated by the ~~commission~~ **DIRECTOR**.

