

Effective 5/12/2015

72-2-117.5 Definitions -- Local Transportation Corridor Preservation Fund -- Disposition of fund money.

- (1) As used in this section:
 - (a) "Council of governments" means a decision-making body in each county composed of the county governing body and the mayors of each municipality in the county.
 - (b) "Metropolitan planning organization" has the same meaning as defined in Section 72-1-208.5.
- (2) There is created the Local Transportation Corridor Preservation Fund within the Transportation Fund.
- (3) The fund shall be funded from the following sources:
 - (a) a local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222;
 - (b) appropriations made to the fund by the Legislature;
 - (c) contributions from other public and private sources for deposit into the fund;
 - (d) all money collected from rents and sales of real property acquired with fund money;
 - (e) proceeds from general obligation bonds, revenue bonds, or other obligations issued as authorized by Title 63B, Bonds;
 - (f) the portion of the sales and use tax described in Subsection 59-12-2217(2)(b) and required by Subsection 59-12-2217(8)(a) to be deposited into the fund; and
 - (g) sales and use tax revenues deposited into the fund in accordance with Section 59-12-2218.
- (4)
 - (a) The fund shall earn interest.
 - (b) All interest earned on fund money shall be deposited into the fund.
 - (c) The State Tax Commission shall allocate the revenues:
 - (i) provided under Subsection (3)(a) to each county imposing a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222;
 - (ii) provided under Subsection 59-12-2217(2)(b) to each county imposing a county option sales and use tax for transportation; and
 - (iii) provided under Subsection (3)(g) to each county of the second class or city or town within a county of the second class that imposes the sales and use tax authorized by Section 59-12-2218.
 - (d) The department shall distribute the funds allocated to each county, city, or town under Subsection (4)(c) to each county, city, or town.
 - (e) The money allocated and distributed under this Subsection (4):
 - (i) shall be used for the purposes provided in this section for each county, city, or town;
 - (ii) is allocated to each county, city, or town as provided in this section with the condition that the state will not be charged for any asset purchased with the money allocated and distributed under this Subsection (4), unless there is a written agreement in place with the department prior to the purchase of the asset stipulating a reimbursement by the state to the county, city, or town of no more than the original purchase price paid by the county, city, or town; and
 - (iii) is considered a local matching contribution for the purposes described under Section 72-2-123 if used on a state highway.
 - (f) Administrative costs of the department to implement this section shall be paid from the fund.
- (5)
 - (a) A highway authority may acquire real property or any interests in real property for state, county, and municipal highway corridors subject to:
 - (i) money available in the fund to each county under Subsection (4); and

- (ii) the provisions of this section.
 - (b) Fund money may be used to pay interest on debts incurred in accordance with this section.
 - (c)
 - (i)
 - (A) Fund money may be used to pay maintenance costs of properties acquired under this section but limited to a total of 5% of the purchase price of the property.
 - (B) Any additional maintenance cost shall be paid from funds other than under this section.
 - (C) Revenue generated by any property acquired under this section is excluded from the limitations under this Subsection (5)(c)(i).
 - (ii) Fund money may be used to pay direct costs of acquisition of properties acquired under this section.
 - (d) Fund money allocated and distributed under Subsection (4) may be used by a county highway authority for countywide transportation planning if:
 - (i) the county's planning focus area is outside the boundaries of a metropolitan planning organization;
 - (ii) the transportation planning is part of the county's continuing, cooperative, and comprehensive process for transportation planning, corridor preservation, right-of-way acquisition, and project programming;
 - (iii) no more than four years allocation every 20 years to each county is used for transportation planning under this Subsection (5)(d); and
 - (iv) the county otherwise qualifies to use the fund money as provided under this section.
 - (e)
 - (i) Subject to Subsection (11), fund money allocated and distributed under Subsection (4) may be used by a county highway authority for transportation corridor planning that is part of the corridor elements of an ongoing work program of transportation projects.
 - (ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the direction of:
 - (A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or
 - (B) the department if the county is not within the boundaries of a metropolitan planning organization.
 - (f)
 - (i) A county, city, or town that imposes a local option highway construction and transportation corridor preservation fee under Section 41-1a-1222 may elect to administer the funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving loan fund.
 - (ii) If a county, city, or town elects to administer the funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving loan fund, a local highway authority shall repay the fund money authorized for the project to the fund.
 - (iii) A county, city, or town that elects to administer the funds allocated and distributed to that county, city, or town under Subsection (4) as a revolving loan fund shall establish repayment conditions of the money to the fund from the specified project funds.
- (6)
- (a)
 - (i) The Local Transportation Corridor Preservation Fund shall be used to preserve highway corridors, promote long-term statewide transportation planning, save on acquisition costs, and promote the best interests of the state in a manner which minimizes impact on prime agricultural land.

- (ii) The Local Transportation Corridor Preservation Fund shall only be used to preserve a highway corridor that is right-of-way:
 - (A) in a county of the first or second class for:
 - (I) a state highway;
 - (II) a principal arterial highway as defined in Section 72-4-102.5;
 - (III) a minor arterial highway as defined in Section 72-4-102.5; or
 - (IV) a collector highway in an urban area as defined in Section 72-4-102.5; or
 - (B) in a county of the third, fourth, fifth, or sixth class for:
 - (I) a state highway;
 - (II) a principal arterial highway as defined in Section 72-4-102.5;
 - (III) a minor arterial highway as defined in Section 72-4-102.5;
 - (IV) a major collector highway as defined in Section 72-4-102.5; or
 - (V) a minor collector road as defined in Section 72-4-102.5.
- (iii) The Local Transportation Corridor Preservation Fund may not be used for a highway corridor that is primarily a recreational trail as defined under Section 79-5-102.
- (b) A highway authority shall authorize the expenditure of fund money after determining that the expenditure is being made in accordance with this section from applications that are:
 - (i) endorsed by the council of governments; and
 - (ii) for a right-of-way purchase for a highway authorized under Subsection (6)(a)(ii).
- (7)
 - (a)
 - (i) A council of governments shall establish a council of governments endorsement process which includes prioritization and application procedures for use of the money allocated to each county under this section.
 - (ii) The endorsement process under Subsection (7)(a)(i) may include review or endorsement of the preservation project by:
 - (A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or
 - (B) the department if the county is not within the boundaries of a metropolitan planning organization.
 - (b) All fund money shall be prioritized by each highway authority and council of governments based on considerations, including:
 - (i) areas with rapidly expanding population;
 - (ii) the willingness of local governments to complete studies and impact statements that meet department standards;
 - (iii) the preservation of corridors by the use of local planning and zoning processes;
 - (iv) the availability of other public and private matching funds for a project;
 - (v) the cost-effectiveness of the preservation projects;
 - (vi) long and short-term maintenance costs for property acquired; and
 - (vii) whether the transportation corridor is included as part of:
 - (A) the county and municipal master plan; and
 - (B)
 - (I) the statewide long range plan; or
 - (II) the regional transportation plan of the area metropolitan planning organization if one exists for the area.
 - (c) The council of governments shall:
 - (i) establish a priority list of highway corridor preservation projects within the county;

- (ii) submit the list described in Subsection (7)(c)(i) to the county's legislative body for approval; and
 - (iii) obtain approval of the list described in Subsection (7)(c)(i) from a majority of the members of the county legislative body.
 - (d) A county's council of governments may only submit one priority list described in Subsection (7)(c)(i) per calendar year.
 - (e) A county legislative body may only consider and approve one priority list described in Subsection (7)(c)(i) per calendar year.
- (8)
- (a) Unless otherwise provided by written agreement with another highway authority, the highway authority that holds the deed to the property is responsible for maintenance of the property.
 - (b) The transfer of ownership for property acquired under this section from one highway authority to another shall include a recorded deed for the property and a written agreement between the highway authorities.
- (9)
- (a) The proceeds from any bonds or other obligations secured by revenues of the Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for funds under this section.
 - (b) The highway authority shall pledge the necessary part of the revenues of the Local Transportation Corridor Preservation Fund to the payment of principal and interest on the bonds or other obligations.
- (10)
- (a) A highway authority may not expend money under this section to purchase a right-of-way for a state highway unless the highway authority has:
 - (i) a transportation corridor property acquisition policy or ordinance in effect that meets department requirements for the acquisition of real property or any interests in real property under this section; and
 - (ii) an access management policy or ordinance in effect that meets the requirements under Subsection 72-2-117(8).
 - (b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a written agreement with the department for the department to acquire real property or any interests in real property on behalf of the local highway authority under this section.
- (11) The county shall ensure, to the extent possible, that the fund money allocated and distributed to a city or town in accordance with Subsection (4) is expended:
- (a) to fund a project or service as allowed by this section within the city or town to which the fund money is allocated;
 - (b) to pay debt service, principal, or interest on a bond or other obligation as allowed by this section if that bond or other obligation is:
 - (i) secured by money allocated to the city or town; and
 - (ii) issued to finance a project or service as allowed by this section within the city or town to which the fund money is allocated;
 - (c) to fund transportation planning as allowed by this section within the city or town to which the fund money is allocated; or
 - (d) for another purpose allowed by this section within the city or town to which the fund money is allocated.

Amended by Chapter 395, 2015 General Session
Amended by Chapter 410, 2015 General Session

