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Technical Bulletins: State Street Aid Fund Expenditures: On the Road to Understanding

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Municipal Technical Advisory Service

*In cooperation with the
Tennessee Municipal League*



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STATE STREET AID FUND EXPENDITURES: On the Road to Understanding

Updated by Ron Darden, Municipal Management Consultant

Gasoline Tax

The state petroleum and alternative fuel taxes are

- Gasoline tax—21.4 cents per gallon
- Diesel tax—18.4 cents per gallon
- Liquified gas tax—0.14 cents per gallon
- Natural gas tax—0.13 cents per gallon

The Tennessee Legislature authorized the state to distribute a portion of the proceeds from the state gasoline and motor vehicle fuel taxes to incorporated cities and towns for use on municipal streets.

According to the Tennessee Department of Transportation, the gasoline tax yields approximately \$660.8 million per year, and each penny of the tax is worth about \$30.9 million. Of the \$243.5 million in petroleum and alternative fuels tax allocated to cities and counties, cities receive approximately \$92,353,410 based upon per capita distributions. The current distribution to cities is based upon \$28.41 per capita.

The proceeds from these taxes are paid monthly to local governments on a per capita basis. The law requires that gasoline and motor vehicle fuel tax monies be used for street-related purposes. The law further requires that these funds be accounted for separately in a special revenue fund, commonly titled the State Street Aid Fund or Gas Tax Fund. Cities may ask for permission from the state comptroller's office to account for these funds in the General Fund if certain requirements are met. Finally, the law

also provides some very specific examples of how these funds can and cannot be spent.

Local officials now have almost 50 years of experience using these funds for street improvements and have seen increases in the activities that can be funded by these taxes. T.C.A. § 54-4-201 defines a "street" to include streets, highways, avenues, boulevards, publicly owned rights-of-way, bridges, tunnels, public parking areas, or other public ways dedicated to public use and maintained for general public travel lying within a municipality's corporate boundaries. "Street improvements" include construction, reconstruction, improvement, and maintenance of streets, including paving, repaving, grading and drainage, repairs, cleaning, acquisition and maintenance of rights-of-way, extension and widening of existing streets, elimination of railroad grade crossings, acquisition or lease, or lease/purchase of trucks or other equipment necessary for the construction and maintenance of streets, including the purchase, construction, or leasing of facilities to store the equipment, street lighting, signage, and other traffic control devices, and administrative and other necessary expenses, including labor and employee benefits, in connection with such street improvements.

The requirement that state street aid funds are earmarked only for local governments that appropriate as much local revenue for streets for the coming fiscal year as the average they spent

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over the past five years (the old Maintenance of Effort form required by T.C.A. § 67-3-601) has been repealed.

As an aid to understanding the proper receipt and disbursement of these taxes, the author has grouped together five topic areas and included a copy of the applicable sections of the *Tennessee Code Annotated*.

1. General and Administrative

State street aid funds can pay

- Street improvements, including work by the TDOT, a county highway department, or by another municipality, performed under an agreement;
- Valid administration expenses connected with issuing street improvement bonds;
- Principal and interest on street improvement bonds or other indebtedness incurred to pay for street improvements issued after February 19, 1953;
- Street work supervision fees;
- Workers' compensation insurance for employees engaged in street improvement activities;
- General and automotive liability insurance coverage for street improvement activities;
- Property insurance coverage for portions of buildings used to store and maintain street improvement equipment; and
- Mass transit systems, provided that such funding shall not exceed 22.22 percent.

State street aid funds cannot pay

- Auto expenses for the city recorder;
- Salary supplements to the street superintendent;
- Loans temporarily borrowed from the municipal state street aid fund;
- Audit fees;

- Recorder's commission;
- Personal damages;
- Property damages;
- Office assistance; or
- General administrative expenses.

Be careful

- If a city makes curb and gutter improvements and pays the total cost from state street aid funds but has assessed the abutting property owners for two-thirds of the cost, the funds derived from the assessments must remain available for other qualified street projects.
- Interest received by a municipality from the investment of state street aid funds is subject to the same restrictions as the state street aid fund money.
- A city must keep records in accordance with sound municipal accounting practices and include the state street aid funds in the year-end audit.

2. Construction

State street aid funds can pay for

- Engineering fees for street improvements. Cities are not required to employ licensed engineers to prepare bid specifications and estimates;
- Constructing sidewalks along city streets;
- Acquiring rights-of-way for city streets including approaches to bridges and tunnels;
- Widening and/or draining a creek to prevent city street flooding where the primary purpose is to stop street flooding. Protecting other property may be an incidental benefit;
- The payment of up to one-third of the city's rights-of-way acquisition costs for a state highway through the city; and

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- The city’s part of the cost of grade eliminations on streets and highways, including state and federal highways.

State street aid funds cannot pay for

- Extending municipal sewer lines even if tunneling under city streets is necessary; or
- Drainage improvements not associated with protecting a street.

Be careful

- Funds may not exceed one-third of the total costs of rights-of-way for state and federal highways within the municipality.
- All purchases must be made in conformity with public advertisement and competitive bidding laws applicable to the city.

3. Repair and Maintenance

State street aid funds can pay for

- Purchasing machinery to repair and maintain municipal streets;
- Purchasing and maintaining equipment for mowing areas within street rights-of-way;
- Removing dead trees, tree limbs, leaves, and similar objects;
- Purchasing a boiler for an asphalt plant if used to heat asphalt for street improvements; and
- Purchasing street cleaning equipment.

State street aid funds cannot pay for

- Maintaining county roads; or
- Purchasing refuse pick up equipment.

Be careful

- If purchasing a piece of equipment is questionable, spend the money on equipment, supplies, or paving that is not questionable.

4. Street Signs and Street Lights

State street aid funds can pay for

- Erecting street signs;
- Installing and maintaining traffic lights; and
- Street light installation and electric bills for street lights.

State street aid funds cannot pay for

- City welcome signs; or
- Community event and general informational signs.

5. Other Facilities

State street aid funds can pay for

- Purchasing, constructing, repairing, or leasing a facility to store street equipment, street lighting, signs, and other traffic control devices; and
- Improvements to publicly owned parking areas.

General

Municipalities receive

- Allocations on a per capita basis based on the population as of the last federal census or the city’s special census as amended by state planning commission certification letters. Any increase in allocation as a result of change in population takes effect on July 1 of the fiscal year following the population certification.

Municipalities cannot

- Combine the state street aid fund with streets and transportation funds appropriated for distribution to municipalities on a per capita basis. However, cities may ask for permission to account for state street aid funds within the general fund if certain conditions are

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met. Request and approval from the state comptroller’s office is required.

- Use public equipment to build roads, bridges, or conduct other work on private property.

Utility Relocation Loan Program

Cities may be eligible for 15-year loans from funds accumulated and set apart from petroleum funds to fund costs incurred in relocating, moving, or reinstalling utility facilities without any additions thereto. Such loans are allowable only for relocating utility lines located within rights-of-way of highways on the system of state highways, and relocation is required because of highway construction projects administered by the department of transportation.

Applications for assistance should be directed to the State Utility Management Review Board (See T.C.A. § 67-3-901).

Tennessee Code Annotated

54-4-201. Part definitions—As used in this part, unless the context otherwise requires:

- (1) “Municipal street aid fund” means the funds provided for municipalities by § 67-3-617 and § 67-3-812;
- (2) “Municipality” means any incorporated city or incorporated town charged with the duty of constructing and maintaining streets within its corporate boundaries;
- (3) “Street” includes streets, highways, avenues, boulevards, publicly owned rights-of-way, bridges, tunnels, public parking areas or other public ways dedicated to public use and maintained for general public travel lying within a municipality’s corporate boundaries; and
- (4) “Street improvements” means construction, reconstruction, improvement and maintenance

of streets, including paving, repaving, grading and drainage, repairs, cleaning, acquisition and maintenance of rights-of-way, extension and widening of existing streets, elimination of railroad grade crossings, acquisition or lease or lease/purchase of trucks or other equipment necessary in the construction and maintenance of streets, including the purchase, construction or leasing of facilities to store the equipment, street lighting, signage and other traffic control devices, and administrative and other necessary expenses, including labor and employee benefits, in connection with such street improvements. Pub. Acts 1981, ch. 366, § 9; Pub. Acts 1981, ch. 418, § 6; Pub. Acts 1993, ch. 178, § 1, eff. April 13, 1993.

54-4-203. Distribution of funds-Basis-Special census.

(a) Funds in the municipal street aid fund shall be distributed to eligible municipalities within the state monthly by the commissioner of finance and administration, or such other official as now or may be hereafter charged with the duty of allocating or distributing state funds, in proportion as the population of each municipality bears to the aggregate population of all municipalities according to the 1950 federal census or any subsequent federal census; provided, that in the case of any area annexed to a municipality subsequent to the latest federal decennial census the municipality may have a special census within the annexed area taken by the federal bureau of the census or in a manner directed by and satisfactory to the state planning office, in which case the population of the municipality shall be revised and increased in accordance with the special census for purposes of distributing such funds, effective on the next July 1, following

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the certification of the census results to the commissioner of finance and administration; and provided further, that the aggregate population of all municipalities used as a base for calculating such distribution shall be adjusted in accordance with any such special census, effective the same date as aforementioned. Any eligible municipality incorporated after the last federal decennial census may likewise have a special census taken, and shall share in the distribution of the municipal street aid fund beginning on the next July 1, following certification of the census results to the commissioner; the aggregate population shall likewise be adjusted in accordance with any such special census, effective the same date as aforementioned.

(b) Any municipality shall have the right to take not more than three (3) special censuses at its own expense at any time during the interim between the regular decennial federal census. Such right shall include the current decennium. Any such census shall be taken by the federal bureau of the census, or in a manner directed by and satisfactory to the state planning office. The population of the municipality shall be revised in accordance with the special census for purposes of distribution of such funds, effective on the next July 1, following the certification of the census results by the federal bureau of the census or the state planning office to the commissioner of finance and administration; the aggregate population shall likewise be adjusted in accordance with any such special census, effective the same date as aforementioned; provided, that any other such special census of the entire municipality taken in the same manner provided herein, under any other law, shall be used for the distribution of such funds, and in that case, no

additional special census shall be taken under the provisions of this section.

(c) Notwithstanding the foregoing, a “premiere tourist resort city,” defined as a municipality having a population of one thousand one hundred (1,100) or more persons, according to the federal census of 1980 or any subsequent federal census, and in which at least forty percent (40%) of the assessed valuation (as shown by the tax assessment rolls or books of the municipality) of the real estate in the municipality consists of hotels, motels, tourist court accommodations or tourist shops and restaurants, shall be considered a city with a population of ten thousand nine hundred forty-five (10,945) for purposes of distribution of funds under this section.

Pub. Acts 1957, ch. 362, § 1; Pub. Acts 1974, ch. 514, § 1; Pub. Acts 1981, ch. 366, § 6; Pub. Acts 1984, ch. 708, § 1; Pub. Acts 1995, ch. 135, § 1, eff. April 21, 1995.

67-3-901. Gasoline Tax—Distribution of receipts—Expenses of administration —Utility relocation loan program.

(a) The commissioner shall apportion for distribution all of the taxes collected pursuant to § 67-3-201, and shall inform the department of finance and administration as to the proper amounts of all distributions to be made therefrom.

(b) Revenues from the tax imposed by § 67-3-201 shall be apportioned for distribution in the following order

(1) Amounts required to be paid to the state sinking fund pursuant to title 9, chapter 9;

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(2) Of the amounts designated in subdivisions (b)(2)-(5) for distribution to the counties, cities and highway fund, one percent (1%) shall be subtracted from the amount designated for cities, one percent (1%) shall be subtracted from the amount designated for counties, and two percent (2%) shall be subtracted from the amount designated for the highway fund for distribution to the general fund for expenses of administration prior to the distribution of the funds to the cities, counties or highway fund;

(3) Twenty-eight and six-tenths percent (28.6%) of total taxes collected to the various counties of the state on the basis set out in § 54-4-103;

(4) Fourteen and three-tenths percent (14.3%) of total taxes collected to the various municipalities, as defined by § 54-4-201, on the basis set out at § 54-4-203; and

(5) Any funds remaining after the distributions set out above to the highway fund. There shall be accumulated and set apart within the fund such amounts as required, not to exceed one million five hundred thousand dollars (\$1,500,000) during each of four (4) succeeding fiscal years, which shall be available for carrying out the utility relocation loan program, established in subsection (j).

(c) Revenues from the increases in taxes imposed by Acts 1985, ch. 419, and Acts 1985, ch. 454, effective 1985, shall be distributed in accordance with the following formula:

(1) Two cents (2¢) of such revenues shall be apportioned pursuant to subsection (b); and

(2) One cent (1¢) of such revenues shall be apportioned as follows:

(A) Of such amount designated in subdivisions (c)(2)(B) and (C) for distribution to the counties and cities, one percent (1%) shall be subtracted from the amount designated for cities and one percent (1%) shall be subtracted from the amount designated for counties for distribution to the general fund for expenses of administration prior to the distribution of the funds to the cities or counties;

(B) Sixty-six and two-thirds percent (66 2/3%) of such revenues collected to the various counties of the state on the basis set out in § 54-4-103; and

(C) Thirty-three and one-third percent (33 1/3 %) of such revenues collected to the various municipalities, as defined by § 54-4-201, on the basis set out in § 54-4-203.

(d) Notwithstanding any provision of the law to the contrary, a county shall be eligible to receive those revenues to be distributed directly to it from the tax increases imposed by Acts 1985, ch. 419, and Acts 1985, ch. 454, effective 1985, only if it appropriates and allocates funds for road purposes from local revenue sources in an amount not less than the average of the five (5) preceding fiscal years, except bond issues and federal revenue sharing proceeds shall be excluded from the five (5) year average computation. If a county fails, after

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July 1, 1985, to so appropriate and allocate at least such average amount for road purposes, then the amount of revenues which would otherwise be allocable to such county from the revenues derived by former §§ 67-3-603 and 67-3-604 as those statutes existed on July 1, 1985, shall be reduced by the amount of the decrease below such average. The amount of such funds not allocated to such county because of such decrease shall be allocated to the state highway fund, to be used by the department of transportation for the improvement of state highways in such county, and such state funds shall be in addition to the funds otherwise allocated for improvements in such county in that fiscal year.

(e) Funds apportioned to counties under the provisions of Acts 1985, ch. 419, shall be used for resurfacing and upgrading county roads, including the paving of gravel roads. Any expenditure for equipment shall be approved by a two-thirds (2/3) vote of the county legislative body, prior to purchase.

(f) Revenues from the increases in taxes imposed by former §§ 67-3-603 and 67-3-604 as those statutes existed on June 1, 1986, shall be distributed and allocated as follows:

(1) Revenue from the first three cents (3¢) per gallon of such increases in taxes shall be apportioned as follows:

(A) Amounts required to be paid to the state sinking fund pursuant to title 9, chapter 9;

(B) Three million dollars (\$3,000,000) per annum, beginning on July 1, 1986, to the highway fund for the use and benefit of certain mass transit projects; and

(C) All other amounts to the highway fund to be used for accelerating the resurfacing of the state system of highways in order to establish a twelve-year cycle of resurfacing with implementation beginning in 1986 and being completed by 1998, and for new construction in the primary system of highways over the period from 1986 to 1999; and

(2) Revenue from one cent (1¢) of such increases in taxes shall be apportioned as follows:

(A) Of such amount designated hereafter for distribution to counties and cities, one percent (1%) shall be subtracted from the amount designated for counties, and one percent (1%) shall be subtracted from the amount designated for cities for distribution to the general fund for expenses of administration prior to the distribution of the funds to the counties or cities;

(B) Sixty-six and two-thirds percent (66 2/3%) of such revenues collected to the various counties of the state on the basis set out in § 54-4-103; and

(C) Thirty-three and one-third percent (33 1/3 %) of such revenues collected to the various municipalities, as defined by § 54-4-201, on the basis set out in § 54-4-203.

(g) Prior to the apportionment set out in subsections (b), (c), (d) and (f), there shall be apportioned for distribution to the wildlife resources fund, for use exclusively in the administration of the Boating Safety Act of 1965, compiled in title 69, chapter 10, part 2,

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an amount equal to one thousand seventy-four ten thousandths of one percent (.1074%) of the taxes collected under § 67-3-201, exclusive of tax revenues resulting from the three cents (3¢) per gallon gasoline tax increase imposed by Acts 1989, ch. 46.

(h) All revenues and investment income derived from the increase in the gasoline tax rate imposed by Acts 1989, ch. 46, shall be placed in the state highway fund, and shall not be subject to the apportionment and distribution provisions of subsection (b).

(i) Revenues from the one cent (1¢) increase in taxes, from nineteen cents (19¢) to twenty cents (20¢), imposed by §§ 67-3-1703 and 67-3-1704, as those statutes existed under prior Tennessee law immediately after Acts 1989, ch. 241, became effective, shall be apportioned as provided in subdivision (f)(2).

(j)(1) From the amounts accumulated and set apart pursuant to the provisions of subdivision (b)(5), there is hereby established a “utility relocation loan program” for loan financing of all costs incurred by any county, town, city, metropolitan government, utility district, authority or not-for-profit business organizations empowered to provide utility services which provide utility services to customers related to relocating, moving or re-installing their utility facilities, without any additions thereto, when located within rights-of-way of highways on the system of state highways and required because of highway construction projects administered by the department of transportation.

(2) The utility management review board shall review applications for utility relocation loans. Only applicants which meet all of the following criteria may be recommended to the state funding board for loans:

(A) Are obligated to relocate, move or re-install its utilities due to a state highway project;

(B) Have been otherwise unable to obtain financing for such relocation at a reasonable cost on reasonable terms;

(C) Have established fees and charges for services of the utility to be effective immediately or over time sufficient to provide assurance of financial stability, and to agree to adjust such fees and charges periodically to ensure timely payment of loan payments and costs of operation of the system; and

(D) Have covenanted to take such actions necessary to be able to pay when due all loan payments.

(3) As part of its recommendation, the utility management review board shall recommend an estimated amount of the loan and an interest rate for the loan, utilizing an economic index based upon factors which include, but are not limited to, per capita incomes and property values of the applicant. Applicants falling within the lower economic scale on the index shall be eligible for lower interest rates. Loans may be recommended at no interest for terms of five (5) years or less. In determining its recommendations, the board may use any index or regulations promulgated pursuant to § 68-221-1005(b).

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(4) The state funding board is empowered to make and administer loans from the funds and may establish such terms as it determines to be appropriate to carry out the terms of this subsection (j), subject to the following:

(A) Loans shall be for a term of fifteen (15) years or less, not to exceed the useful life of the relocated utilities, with no prepayment penalties;

(B) Loans shall be subject to such other terms, not inconsistent with the foregoing, as the board determines to be appropriate; and

(C) Prior to the start of each fiscal year, the secretary of the state funding board shall certify to the commissioner of finance and administration and the commissioner of transportation, the uncommitted balance in the loan program as of the start of the next fiscal year. For the fiscal year beginning July 1, 1999, through the fiscal year beginning July 1, 2002, additional funding in an amount not to exceed one million dollars (\$1,000,000) per year may be accumulated and set apart within the state highway fund as may be necessary to bring the uncommitted loan program into balance as of each July 1, as may be required when the loan program balance falls to one hundred thousand dollars (\$100,000).

(5) The provisions of this subsection (j) shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this subsection (j) unless such funds are specifically appropriated through the department of transportation

or as a specific amendment by the general appropriations act.

(k) Notwithstanding the provisions of § 54-2-103 or any other law to the contrary, a percentage of funds collected and allocated to the state highway fund shall be deposited in the general fund as follows:

(1) If the statute allocating funds to the state highway fund earmarks two percent (2%) or more of the revenue collected for the general fund, no additional allocation to the general fund shall be made;

(2) If the statute allocating funds to the state highway fund earmarks less than two percent (2%) of the revenue collected for the general fund, an amount equal to the amount necessary when added to the statutory earmark, if any, equals two percent (2%) of the revenue collected shall be earmarked for the general fund;

(3) If the additional revenues earmarked for the general fund as provided in subdivision (k)(2) are less than seven million dollars (\$7,000,000) in the fiscal year ending June 30, 2001, and in subsequent fiscal years, the earmark for the general fund from the gasoline tax imposed under the provisions of § 67-3-201 shall be increased in an amount sufficient to provide that the total amount earmarked for the general fund as provided in subdivision (k)(2) and this subdivision (k)(3) shall be seven million dollars (\$7,000,000) in the fiscal year ending June 30, 2001, and in subsequent fiscal years;

(4) The allocation of funds as provided in this subsection shall not have an impact

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on any scheduled or ongoing construction projects; and

(5) The department of transportation shall submit any proposal for apportionment of costs resulting from the general fund allocation in this subsection (k) to the state building commission for approval prior to implementing such proposal, including, but not limited to, the programs and projects to be affected and the amount proposed to be allocated to each such program or project; and

(6) Except as provided in subdivision (k)(4), it is the legislative intent that the effect of this subsection (k) be allocated on a pro rata basis to any affected program or project.

Acts 1997, ch. 316, § 1; 1999, ch. 450, § 6; 2000, ch. 654, § 1; 2000, ch. 983, § 4; 2001, ch. 448, § 2.

Formerly § 67-3-2001.

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