

CHAPTER 336
FORMERLY
HOUSE BILL NO. 367

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO MOTOR FUEL TAX.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 51, Title 30 of the Delaware Code by making deletions as shown by strike through and additions as shown by underline as follows:

§ 5161 Definitions.

As used in this subchapter:

(1) "Municipality" means any incorporated city or town ~~charged with any duty connected with the construction or maintenance of streets and~~ having been in existence for a period of 1 year.

(2) "Municipal Street Aid Fund" means the funds set up under this subchapter from money received under this subchapter.

(3) "Street improvements" means construction, reconstruction, repair and maintenance of streets, including paving, repaving, grading and drainage, repairs, acquisition of rights-of-way, extension and widening of existing streets, elimination of railroad grade crossings, acquisition of trucks and other equipment necessary in the construction and maintenance of streets, removal of snow and ice and the laying of materials for traction, purchase and installation of street identification signs and traffic control signs, construction, reconstruction and repair of sidewalks and underpasses and overpasses necessary for pedestrian safety, relocation of above ground utilities, mowing, trimming and removal of trees impacting a street, administration and other necessary expenses in connection with such street improvements.

(4) "Streets" includes streets, highways, avenues, boulevards, bridges, tunnels, alleys or other public ways dedicated to public use and maintained for general vehicular travel lying within a municipality's corporate boundary, except that this term does not include state or federal highways within municipalities maintained by the Department of Transportation. The Department shall determine which areas are eligible for municipal street aid funds.

§ 5162 Appropriations paid through State Treasurer.

(a) There shall be appropriated annually to municipalities within the State beginning in the State's 1998 fiscal year and each subsequent year thereafter in conjunction with, pursuant to, and as a portion of, the Delaware Transportation Trust Fund within the Capital Improvement Program, a sum in the amount as appropriated in the annual Bond and Capital Improvement Act. The sum so appropriated shall be transferred to the Municipal Street Aid Fund by the State Treasurer and distributed to municipalities as provided in this subchapter.

(b) When deemed in full compliance with the provisions of § 5165(b) of this title, including the annual submission of an affidavit that will certify the municipality's boundary, mileage and population totals, the State Treasurer is authorized to process payments to municipalities in the following manner:

(1) Recipients of municipal street aid whose total fiscal year share is \$50,000 or less shall ~~receive a~~ be paid one lump-sum distribution in August.

(2) Recipients of municipal street aid whose total fiscal year share is greater than \$50,000 but not more than \$200,000 shall be paid in 2 equal installments, 1 in ~~July~~ August and the other in January.

(3) Recipients of municipal street aid whose total fiscal year share exceeds \$200,000 shall be paid in 4 equal installments, 1 each in ~~July~~ August, October, January and April of each year.

(c) Disbursements can be accrued for up to three (3) years for larger construction projects.

§ 5163 Time and method of computation.

(a) The Department of Transportation shall compute annually ~~on June 30~~ no later than fifteen (15) calendar days from the adoption of the Bond and Capital Improvements Act by the General Assembly of each year or at the end of the state fiscal year the moneys due each participating municipality from the state Municipal Street Aid Fund. Such computation shall be based upon the share of the proceeds of the motor fuel tax imposed by this chapter and appropriated by this subchapter.

(b) Each annual computation by the Department shall be made as follows:

(1) Forty percent of the state Municipal Street Aid Fund shall be distributed in the proportion that the population of each municipality bears to the total population of all participating municipalities. Population shall be ascertained in accordance with § 5165(b)(4) of this title.

(2) Sixty percent of the state Municipal Street Aid Fund shall be distributed in the proportion that the mileage of usable streets not maintained by the State in each municipality bears to the total mileage of said streets in all municipalities.

~~(c) No municipality shall be entitled to participate under this subchapter unless it has been in existence for a period of at least 1 year prior to any distribution; fractions of a year shall not be taken into consideration when distribution is made.~~

§ 5164 Certification of Secretary of Transportation; time for payment.

The Department of Transportation shall forward to the Secretary of Transportation within 20 days after each annual computation a certification as to the sum of money due each municipality from the state Municipal Street Aid Fund. Such certification shall be used by the Secretary to advise the State Treasurer as to distribution of the moneys as provided in this subchapter not later than 30 days from the date of receiving the certification.

§ 5165 Expenditures of funds by municipalities; records, audits and regulations of municipalities.

(a) Each municipality shall keep an accounting of all funds received from the state municipal aid fund ~~in a separate account, designated as "Municipal Street Aid Fund"~~ and may expend such funds as follows:

- (1) An amount not exceeding 30% of the annual grant may be used for the following purposes:
 - a. Paving of the street after construction, installation, repair, maintenance or replacement of water and sewer systems associated with a street;
 - b. Preparation or revision of the mobility element of the comprehensive plans ~~for urban renewal;~~

c. Payment of principal and interest on any bonds issued for the purpose of paragraph (a)(1)a. of this section, notwithstanding that such indebtedness may have been incurred prior to May 27, 1972.

(2) Any portion of the annual grant not expended pursuant to paragraph (a)(1) of this section may be expended for the following purposes:

- a. Street improvements;
- b. Lighting of the streets and all expenses related thereto;
- c. Payment of principal and interest on any bonds issued for street improvements.
- d. Preparation or revision of inventory of all municipal infrastructure.

(b) Each municipality shall:

(1) Furnish evidence annually to the State Treasurer that the municipal employees authorized to expend municipal street aid funds are bonded in an amount as may be required by the charter of the municipality;

(2) In a form prescribed by the State Treasurer, submit an accurate and complete annual report not later than ~~October 1~~ August 15 of each year to the State Treasurer showing expenditures of municipal street aid funds for the preceding fiscal year ended June 30. Such form shall itemize each expenditure as represented on said form as "Other expenditures". Payment for the current fiscal year will not be issued until the report for the preceding fiscal year has been received by the State Treasurer's Office;

(3) Award contracts for street improvements which shall be in accordance with the provisions of Chapter 69 of Title 29, and any applicable specifications of the Department of Transportation;

(4) On or before May 15 of each year, file with the Department of Transportation an affidavit signed by the mayor, city manager or president of the council of the municipality, setting forth:

a. The population of the municipality, based on ~~a complete house by house and person by person census of the municipality. In the absence of this special census, the Department of Transportation will use whichever is greatest: the latest decennial census or the latest official estimate prepared by either the United States Bureau of the Census or the Delaware Population Consortium.~~ For purposes of this subchapter, the population of a municipality can be adjusted between the latest decennial census, the latest official estimate prepared by either the United States Census Bureau or the Delaware Population Consortium by providing proof of new dwelling construction through "certificate of occupancy". The population of the municipality which is a summer resort shall be deemed to include all property owners entitled to vote in a municipal election; and

b. A tabulation of streets added during the past fiscal year which are dedicated to public use and maintained by their municipal forces. Said tabulations should include street names, starting and ending points, and length in feet or miles, and be accompanied by a map indicating location of any new streets.

(c) Pending expenditure of funds received pursuant to § 5163 of this title, a municipality may make short-term investments of such funds in United States government securities or may deposit same in any bank or savings and loan association interest-bearing accounts or certificates guaranteed by any agency of the United States

government. Any interest earned on such investments or deposits shall be used for the purposes set forth in paragraph (a)(2) of this section. Such investments or deposits shall not be deemed to be "expenditures" of the funds as set forth in subsection (a) of this section.

Approved July 17, 2018