

# HOUSE BILL No. 4352

February 21, 1991, Introduced by Rebs. Murphy, Hertel, Pitoniak, Clack, Stallworth, Kosteva, Wallace, Dobronski, Varga, Clarke, Harrison, DeMars, Joe Young, Sr., Yokich, Palamara, Profit, Joe Young, Jr., Byrum, Baade, Webb, Olshove, Weeks, Hoffman, Gnodtke, Gilmer and Saunders and referred to the Committee on Transportation.

A bill to amend the title and section 1 of Act No. 230 of the Public Acts of 1988, entitled

"An act to provide for entering into the tri-state high speed rail line compact,"

being section 462.81 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and section 1 of Act No. 230 of the  
2 Public Acts of 1988, being section 462.81 of the Michigan  
3 Compiled Laws, are amended to read as follows:

### 4 TITLE

5 An act to provide for entering into ~~the tri-state~~ A high  
6 speed rail line compact.

7 Sec. 1. The ~~tri-state~~ high speed rail line compact is  
8 enacted into law and entered into with all jurisdictions legally  
9 joining as parties, in the form substantially as follows:

## ARTICLE I. POLICY AND PURPOSE

1  
2 There is created ~~the tri-state~~ A high speed rail line  
3 compact. The party states acknowledge that it is within the  
4 public interest to develop a high speed rail line to provide  
5 faster and more frequent rail service in the Detroit-Chicago  
6 corridor. The party states also recognize that the development  
7 of a high speed rail line requires the awarding of a contract to  
8 the private sector for the development of the line in the  
9 Detroit-Chicago corridor to provide more economic and efficient  
10 transportation in the states ~~of Michigan, Illinois, and Indiana~~  
11 THROUGH WHICH THE RAIL LINE IS CONSTRUCTED.

12 It is the policy of the party states to enter into a  
13 ~~tri-state~~ high speed rail line compact for the purpose of:

14 a. Providing the instrument and framework for a cooperative  
15 effort.

16 b. Protecting the health and safety of the citizens in  
17 development and management of the ~~tri-state~~ high speed rail  
18 line.

19 c. Accepting and reviewing proposals from the private  
20 sector.

21 d. Reviewing proposals to determine compliance with rules,  
22 regulations, and laws on the federal, state, and local levels.

## ARTICLE II. DEFINITIONS

23  
24 As used in this compact, unless the context clearly requires  
25 a different construction:

26 a. "Commission" or ~~"tri-state"~~ "high speed rail  
27 commission" means the high speed rail advisory commission created

1 pursuant to this compact. ~~which shall have as its members~~  
2 ~~representatives from the states of Michigan, Indiana, and~~  
3 ~~Illinois.~~ The commission is composed of members from the states  
4 participating in the development of the high speed rail line from  
5 Detroit to Chicago.

6       b. "Corridor" or "Detroit-Chicago corridor" means the area  
7 between Detroit and Chicago within which a high speed rail line  
8 is to be located. The corridor shall run between the general  
9 geographic areas established by the proposal submitted to the  
10 commission.

11       c. "Cost" means any cost of construction or acquisition of  
12 a high speed rail line, including finance charges, interest, pro-  
13 vision for working capital, reserves for principal and interest,  
14 contributions in aid of construction, expenses necessary to  
15 determine the feasibility of a proposed high speed rail line, and  
16 all other costs necessary for placing the high speed rail line in  
17 operation.

18       d. "Developer" or "contractor" means a person who presents  
19 a proposal to the commission for the high speed rail line. The  
20 developer shall be responsible for the construction of the high  
21 speed rail line right-of-way and enter into joint development  
22 agreements with local political subdivisions for acquiring use or  
23 ownership of property as transit stations, transit station appur-  
24 tenant buildings, and ancillary facilities.

25       e. "Development" or "joint development" means the planning,  
26 management, financing, or construction of projects adjacent or  
27 physically, functionally, or otherwise related to a high speed

1 rail line to establish improved areas in order to effect the  
2 policy and purposes of this compact, pursuant to agreements  
3 between any person or other entity, public or private.

4 f. "Facility" means a structure or improvement on or appur-  
5 tenant to the land which is being developed for the high speed  
6 rail line.

7 g. "High speed rail line" ~~OR~~ "high speed rail line  
8 system" ~~, or "tri-state high speed rail line"~~ means any mass  
9 commuting high speed fixed guideway transportation system capable  
10 of operating at speeds in excess of 100 miles per hour. A high  
11 speed rail line includes a corridor and structures essential to  
12 the operation of the line, including land, structures, improve-  
13 ments, rolling stock, rights-of-way, easements, rail lines, rail  
14 beds, guideway structures, stations, platforms, switches, yards,  
15 terminals, parking lots, power relays, switching houses, transit  
16 stations, transit station appurtenant buildings, ancillary facil-  
17 ities, and any other facilities or equipment used or useful for  
18 the purposes of high speed rail transportation construction,  
19 operation, or maintenance, or the financing of high speed rail  
20 transportation. Each of the facilities of a high speed rail line  
21 shall fall within 1 of the following categories: rail line,  
22 transit station, transit station appurtenant building, or ancil-  
23 lary facility.

24 h. "Local political subdivision" means a municipality in  
25 which any part of the high speed rail line is proposed to be  
26 located.

1 i. "Municipality" means a city, village, township, or  
2 county.

3 j. "Party state" means a state which enacts the compact  
4 into law and which subsequently becomes part of the agreement  
5 with the other states for construction of the high speed rail  
6 line.

7 k. "Person" means an individual, corporation, partnership,  
8 or association.

9 l. "Proposal" means the documents submitted by a contractor  
10 to the commission for construction of a proposed high speed rail  
11 line. The proposal shall provide all needed specifications  
12 information for construction of the high speed rail line and any  
13 related facilities, as well as financial and operational  
14 disclosures. The proposal shall clearly state the terms and con-  
15 ditions of the agreement detailing commencement of performance,  
16 phases of construction, financial arrangements, amendment proce-  
17 dures, termination of contract, subcontracting, assignments,  
18 breach of contract actions, penalties, and any other terms that  
19 the commission considers appropriate and necessary.

20 m. "State" means a state of the United States, the District  
21 of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands,  
22 or any other territorial possession of the United States.

23 ARTICLE III. THE COMMISSION

24 a. There is hereby created the ~~tri-state~~ high speed rail  
25 line advisory commission which shall include representatives from  
26 the PARTICIPATING party states. ~~of Michigan, Indiana, and~~  
27 ~~Illinois.~~ The commission consists of ~~+5~~ 16 voting members with

1 powers to bind their respective states by their words or  
2 actions. The state of Michigan has ~~10~~ 11 members plus 1  
3 advisory nonvoting member from the house of representatives  
4 appointed by the speaker of the house and 1 advisory nonvoting  
5 member from the senate appointed by the senate majority leader,  
6 AND Illinois ~~4~~ HAS 5 members. ~~, and Indiana 1 member.~~ The  
7 governor of each party state shall notify the persons appointed  
8 to the commission and any alternates in writing. An alternate  
9 may act on behalf of the member only in the member's absence.  
10 The method of selection of the members appointed by the governors  
11 of the respective states, and the expenses of each commission  
12 member, shall be the responsibility of the member's respective  
13 state. The commission may include as advisory members or a state  
14 may include as part of its representation on the commission mem-  
15 bers of the interstate rail passenger advisory council.

16 b. Each commission member is entitled to 1 vote. An action  
17 of the commission is not binding unless approved by a majority of  
18 the total membership with members from ~~at least 2 of the states~~  
19 EACH STATE constituting the majority.

20 c. The commission shall elect among its members a  
21 chairperson. The commission shall adopt and publish, in conven-  
22 ient form, bylaws, rules, and policies which are not inconsistent  
23 with this compact.

24 d. The commission shall meet at least once quarterly and  
25 shall also meet upon the call of the chairperson or a commission  
26 member.

1 e. All meetings of the commission shall be open to the  
2 public with reasonable advance notice. The commission may, by  
3 majority vote, close a meeting to the public for the purpose of  
4 considering sensitive personnel or legal strategy matters.  
5 However, all commission actions and decisions shall be made in  
6 open meetings and appropriately recorded.

7 f. The commission may establish advisory committees for the  
8 purpose of advising the commission on any matters pertaining to  
9 high speed rail transportation systems.

10 g. The office of the commission shall be in a party state.  
11 The commission may appoint or contract for and compensate a  
12 limited staff necessary to carry out its duties and functions.  
13 The staff shall serve at the commission's pleasure with the  
14 exception that staff hired as the result of securing federal  
15 funds shall be hired and governed under applicable federal stat-  
16 utes and regulations. In selecting any staff, the commission  
17 shall assure that the staff has adequate experience and formal  
18 training to carry out the functions assigned to it by the  
19 commission.

20 h. The commission may accept any donations, grants of  
21 money, equipment, supplies, materials, and services from any  
22 state, the United States, any political subdivision, an inter-  
23 state agency, or from any person. The nature, amount and condi-  
24 tion, if any, attendant upon any donation or grant accepted or  
25 received by the commission together with the identity of the  
26 donor, grantor or lender, shall be retained by the commission.

## ARTICLE IV. PROPOSAL EVALUATION

1           a. The ~~tri-state~~ high speed rail commission shall be  
2 responsible for the evaluation of proposals from potential con-  
3 tractors as determined by its bylaws for development and con-  
4 struction of the high speed rail line. The commission shall  
5 determine the breakdown of both public and private costs involved  
6 in the development and construction of the high speed rail line.  
7 Each state's representatives shall use appropriate departments  
8 and bureaus to assist in the evaluation of the proposals.

9           b. The commission shall determine if the applicant's quali-  
10 fications are sufficient to develop a high speed rail line  
11 between Detroit and Chicago. The commission shall determine  
12 whether the contractor can meet certain minimal financial  
13 requirements, can meet certain construction capabilities, can  
14 meet specification requirements, and has suitable management  
15 operations to develop a high speed rail line system and make rec-  
16 ommendations to the governors of each state based on its  
17 determinations.

18           c. The commission shall submit recommendations for the  
19 technology for the main corridor to the governors of the respec-  
20 tive states.

21           d. The commission may recommend proposed forms of financial  
22 aid or incentives that may be provided by each state and the fed-  
23 eral government.

24           e. Proposals submitted by contractors to the commission  
25 shall include a clear and precise delineation of the proposed  
26 route, station locations, fares, schedules of operation,  
27



1 technology to be used, and revenue sources including land  
2 development.

3 f. The commission shall insure that any staff assisting the  
4 commission in the evaluation of the proposals abides by all  
5 existing state laws and budget procedures of the respective  
6 states.

7 g. The commission shall make recommendations for overall  
8 policies and procedures relating to the high speed rail line for  
9 the PARTICIPATING PARTY states. ~~of Indiana, Michigan, and~~  
10 ~~Illinois.~~

11 h. The commission may accept proposals from potential con-  
12 tractors for 6 months after the first formal meeting of the  
13 commission. The commission shall then evaluate and make recom-  
14 mendations to the governors of the respective states on the pro-  
15 posals not later than 6 months after the last proposal has been  
16 accepted. The governors of the respective states shall approve  
17 or disapprove the proposal. If the governors approve the propos-  
18 al, the governors shall develop all appropriate executive and  
19 legislative proposals necessary to implement development of the  
20 high speed rail line. If the governors disapprove the proposal,  
21 the governors, by unanimous consent, may direct the commission to  
22 accept new or revised proposals within a timetable as set by the  
23 governors. The commission shall be disbanded 2 years after its  
24 first formal meeting.

25 ARTICLE V. RIGHTS AND OBLIGATIONS OF PARTY STATES

26 a. Each party state shall act in good faith in the  
27 performance of acts and courses of conduct which are intended to

1 insure the potential development of the high speed rail line and  
2 its facilities in a manner consistent with this compact.

3       b. Each party state shall provide to the commission any  
4 data and information the commission requires to implement its  
5 responsibilities. Each party state shall establish the capabil-  
6 ity to obtain any data and information required by the  
7 commission.

8       c. Each party state shall encourage and promote developmen-  
9 tal projects to support the potential development of the high  
10 speed rail line.

11       d. Each party state shall adopt reciprocal legislation and  
12 agreements in order to carry out the purposes of this compact.

13               ARTICLE VI. OTHER LAWS AND REGULATIONS

14       a. Nothing in this compact:

15       1. Abrogates or limits the applicability of any federal  
16 statute or diminishes or otherwise impairs the jurisdiction of  
17 any federal agency expressly conferred by congress.

18       2. Prevents the enforcement of any other law of a party  
19 state which is not inconsistent with this compact.

20       3. Affects any administrative or judicial proceeding pend-  
21 ing on the effective date of this compact.

22       4. Alters the relations between and the respective internal  
23 responsibility of the government of a party state and its politi-  
24 cal subdivisions.

25       b. For purposes of this compact, all state laws or parts of  
26 laws in conflict with this compact are hereby superseded to the  
27 extent of the conflict.

1 c. No law, rule, or regulation of a party state or of any  
2 of its political subdivisions or instrumentalities may be applied  
3 in a manner which discriminates against a contractor.

4 ARTICLE VII. ELIGIBLE PARTIES, WITHDRAWAL, REVOCATION,  
5 TERMINATION

6 a. Eligible parties to this compact are the states of  
7 Michigan ~~—~~ AND Illinois ~~—, and Indiana~~ AND ANY OTHER STATE  
8 THAT DESIRES TO JOIN UPON APPROVAL BY THE PARTICIPATING PARTY  
9 STATES AND RATIFICATION OF THIS COMPACT.

10 b. An eligible state becomes a party state when the state  
11 enacts the compact into law and pays a membership fee if required  
12 by the bylaws.

13 c. The commission is formed upon the appointment of commis-  
14 sion members. The governor of the first state to enact this com-  
15 pact shall convene the initial meeting of the commission. The  
16 commission shall, if required, cause legislation to be introduced  
17 in the congress which grants the consent of the congress to this  
18 compact, and shall take action necessary to organize the commis-  
19 sion and implement the provisions of this compact.

20 d. Any party state may withdraw from this compact either by  
21 repealing the authorizing legislation or by withdrawing from the  
22 compact within 2 years after the date the party state entered  
23 into the compact. A state which withdraws shall give notice in  
24 writing of the withdrawal to the commission and to the governor  
25 of each party state.

26 e. Any party state which fails to comply with the terms of  
27 this compact or fails to fulfill its obligations may have its

1 privileges suspended or its membership in the compact revoked by  
2 the commission pursuant to its bylaws. Revocation takes effect 1  
3 year after the date the affected party state received written  
4 notice from the commission of its action. All legal rights of  
5 the affected party state established under this compact cease  
6 upon the effective date of revocation but any legal obligations  
7 of that party state arising before revocation continue until they  
8 are fulfilled. The chairperson of the commission shall transmit  
9 written notice of a revocation of a party state's membership in  
10 the compact immediately following the vote of the commission to  
11 the governor of the affected party state, all other governors of  
12 the party states, and the congress of the United States, if  
13 necessary.

14 f. This compact becomes effective upon enactment by the ~~3~~  
15 party states and, if required, consent to this compact by  
16 congress. If consent is required, the congress shall have an  
17 opportunity to withdraw its consent every 5 years. Failure of  
18 the congress to affirmatively withdraw its consent has the effect  
19 of renewing consent for an additional 5-year period.

20 g. The withdrawal of a party state from this compact under  
21 section d of this article or the suspension or revocation of a  
22 state's membership in this compact under section e of this arti-  
23 cle does not affect the applicability of this compact to the  
24 remaining party states.

## ARTICLE VIII. PENALTIES

a. Each party state shall prescribe and enforce penalties against any person who is not an official of another state for violation of any provision of this compact.

b. Each party state has the right to seek legal recourse against any party state which acts in violation of this compact.

## ARTICLE IX. SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable. If any phrase, clause, sentence, or provision of this compact is declared by a court of competent jurisdiction to be contrary to the constitution of any participating state or of the United States or its applicability to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and its applicability to any government, agency, person, or circumstance shall not be affected. If any provision of this compact shall be held contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the state affected as to all severable matters.