



Senate Fiscal Agency
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 BILL ANALYSIS

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Senate Bills 1588, 1589, 1590, and 1592 (as enacted)
House Bills 6542, 6543, 6546, and 6625 (as enacted)
Sponsor: Senator Jud Gilbert, II (S.B. 1588)
Senator Jason E. Allen (S.B. 1589)
Senator Tupac A. Hunter (S.B. 1590)
Senator Bill Hardiman (S.B. 1592)
Representative Bert Johnson (H.B. 6442)
Representative Tom Pearce (H.B. 6543)
Representative Gabe Leland (H.B. 6546)
Representative Hoon-Yung Hopgood (H.B. 6625)

Senate Committee: Transportation
House Committee: Transportation

Date Completed: 7-6-09

CONTENT

House Bill 6542 rewrote Public Act 35 of 1867, which it named the "Nonprofit Street Railway Act", to do the following:

- Permit the organization of a nonprofit corporation for the purpose of acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway system.
- Permit a nonprofit corporation to become a street railway in a city if the corporation amends its articles of incorporation to include certain provisions.
- Prohibit a street railway from constructing a railway system on the streets and highways of a road authority unless the street railway accepts any terms and conditions imposed by the road authority, and the road authority approves an operating license agreement with the street railway.
- Require the street railway to pay the road authority for its costs incurred in constructing the street railway system and mitigating its impact on road users, the environment, and surrounding neighborhoods.

PUBLIC ACTS 485-488 of 2008
PUBLIC ACTS 481-484 of 2008

- Permit a street railway to transfer a street railway system to a public entity operating a transportation system, if authorized by law.

Senate Bill 1589 amended Public Act 35 of 1867 to do the following:

- Permit a city, village, or township in which a street railway system is located to establish a transit operations finance zone for the system, at the request of a street railway and with the consent of the Michigan Department of Transportation (MDOT).
- Require the city, village, or township to enter into an agreement with MDOT and the street railway for the creation of the zone.
- Require the agreement to include a tax increment financing (TIF) plan for the zone, which must provide for the distribution of TIF revenue to the street railway.
- Require the city, village, or township to hold a public hearing before entering into the agreement.
- Require the city, village, or township to submit to MDOT and the State Tax Commission an annual report on the status of the TIF revenue.

Senate Bill 1588 amended the Michigan Transportation Fund (MTF) law to include a street railway car in the definition of "transit vehicle", and include a street railway in the definition of "public transportation".

Senate Bill 1590 amended the MTF law to require that, for fiscal year 2009-10 and each subsequent fiscal year, the Governor and the State Budget Director include in the annual budget an appropriation from a fund or funds, other than the Comprehensive Transportation Fund, to a street railway equal to the difference between its annual operating expenses and revenue, but not more than 8.0% of the total private investment in the street railway.

Senate Bill 1592 amended the State Transportation Preservation Act to permit MDOT to provide financial assistance to a street railway, perform or contract for maintenance or improvements on rail property owned by a street railway, and contract with an entity to provide street railway service.

House Bill 6543 amended the Nonprofit Corporation Act to include a street railway under the Nonprofit Street Railway Act as a nonprofit corporation.

House Bill 6546 amended the Railroad Code to specify that it does not apply to a street railway organized under the Nonprofit Street Railway Act; and to exclude from the definitions of "street railway" and "street railway system" a street railway organized under that Act and a street railway system under that Act, respectively.

House Bill 6625 amended the Code of Criminal Procedure to include in the sentencing guidelines causing derailment of a streetcar, tram, or trolley or endangering the life of a person engaged in the work of or traveling by streetcar, tram, or trolley. The offense is a Class A felony against public safety with a statutory maximum sentence of life imprisonment.

All of the bills took effect on January 12, 2009.

Each of the Senate bills was tie-barred to all of the House bills. House Bills 6542, 6543, and 6546 were tie-barred to all of the Senate bills. House Bill 6625 was tie-barred to Senate Bill 1589.

The Senate bills and House Bill 6542 are described in detail below.

House Bill 6542

Purpose; Interpretation of Act

The bill added the following statement to Public Act 35 of 1867 (the Nonprofit Street Railway Act): "The legislature finds and declares that there exists in this state a need to encourage the development of transportation facilities and the provision of public transportation services by authorizing the acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining of nonprofit street railway companies and systems and that public assistance in...[those activities] is declared to be a public purpose. It is the intent of the legislature that a street railway system constructed by a nonprofit corporation under this act be designed to adapt to or connect with other public transit systems. It is the intent of the legislature that resources expended to construct a street railway system under this act qualify as state and local match funds for transit systems eligible for federal funding."

The bill requires that the Act be construed liberally to effectuate the legislative intent and the purpose of the Act as complete and independent authorization for the performance of every act and thing authorized in the Act, and that all powers granted in the Act be broadly interpreted to effectuate its intent and purposes and not as a limitation of powers.

The bill also states that the powers conferred in the Act upon a street railway are in addition to any other powers the street railway possesses under law.

Unless permitted by the State Constitution or the Act, or agreed to by a street railway, any restrictions, standards, conditions, or prerequisites of a city, village, or township

otherwise applicable only to a street railway and enacted after the bill's effective date do not apply to a street railway. This provision "is intended to prohibit special local legislation or ordinances applicable exclusively or primarily to a street railway and not to exempt a street railway from laws generally applicable to other persons or entities".

The bill defines "street railway" as a nonprofit corporation organized under the Act for the purpose of operating a street railway system other than a railroad train for transporting people or property. "Street railway system" means the facilities, equipment, and personnel required to provide and maintain a public transportation system operated on rails at grade or above or below ground within a city, village, or township using streetcars, trolleys, light rail vehicles, or trams for the transportation of people or property. The term also includes necessary power feeds, signals, and stops or stations within a public right-of-way. The term excludes facilities and improvements not required to maintain a public transportation system.

Articles of Incorporation

The Act previously permitted three or more people to form a corporation for the purpose of constructing, owning, maintaining, or using any street railway in any city, village, or township in the State by establishing articles of association in writing. The articles of association had to be signed by those associating, and contain specific information, including the name of the corporation, its purpose, and the amount and number of shares of capital stock held by the corporation. The bill deleted those provisions.

After the bill's effective date, one or more people may organize a street railway under the Act for the purpose of acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway system, by signing in ink and filing articles of incorporation for the street railway.

The articles must include all of the following:

- The name of the street railway, which must include the word or words "rail",

"railway", "street railway", "light rail", or "metro rail".

- The purpose for which the corporation is organized, which must be limited to acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway system.
- The city, village, or township in which the street railway system will principally operate.

The articles of incorporation must be filed with the Bureau of Commercial Services of the Department of Energy, Labor, and Economic Growth (DELEG) as provided under the Nonprofit Corporation Act.

In addition, a nonprofit corporation may become a street railway under the Nonprofit Street Railway Act and acquire, own, construct, furnish, equip, complete, operate, improve, and maintain a street railway system in a city if, on and after the bill's effective date, the articles of incorporation are amended to include all of the following:

- A provision authorizing the name of the corporation, to include the word or words "rail", "railway", "street railway", "light rail", or "metro rail".
- A provision detailing the purposes for which the corporation is organized, which must be limited to purposes related to acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway system.
- A provision indicating the city in which the street railway system will principally operate.

The amendments to the articles of incorporation must be adopted and filed with the Bureau of Commercial Services as provided under the Nonprofit Corporation Act.

The Nonprofit Corporation Act applies to a street railway organized under the Nonprofit Street Railway Act unless otherwise provided in or inconsistent with its provisions.

Street Railway & Road Authority

Previously, a street railway corporation organized under Public Act 35 of 1867, with the consent of the corporate authorities of

any city or village, could construct, use, maintain, and own a street railway for the transportation of passengers in and upon the lines of the streets and ways in that city or village designated and granted for that purpose. A street railway company could not construct any railway system in the streets of any city or village until it had accepted any terms and conditions for their use. A street railway company could extend, construct, use, and maintain its road in and along streets or highways of any township adjacent to that city or village, upon terms and conditions agreed upon by the company and the township board. A street railway company also could construct, use, maintain, and own a street railway for the transportation of passengers in and along the streets and highways of any township upon terms and conditions agreed upon by the company and the township board.

The bill deleted those provisions. Instead, a street railway may acquire, own, construct, furnish, equip, complete, operate, improve, and maintain a street railway system in and upon the streets and highways of a road authority with its approval, on terms and conditions imposed by the road authority. The approval must be embodied in an operating license agreement between a street railway and each road authority with jurisdiction over public streets and highways upon which the street railway operates or seeks to operate a street railway system. The operating license agreement must include the terms and conditions for operation of the street railway system.

Before approving an agreement, a road authority must hold a public hearing on it in the city, village, or township in which the street railway seeks to operate a street railway system. The public hearing must be held in compliance with the Open Meetings Act. Notice of the public hearing must be given at least 20 days before its date. At the public hearing, the street railway and the road authority may present information regarding the proposed operating license agreement as they deem appropriate. One or more road authorities may conduct a joint public hearing.

When operating in and upon the streets and highways of a road authority, a street railway is subject to rules, regulations, or ordinances imposed by the authority. A street railway

may not construct any street railway system in and upon the streets and highways of a road authority until it accepts in writing any terms and conditions imposed by the authority, the operating license agreement is approved, and the agreement is filed with each road authority having jurisdiction over public streets and highways upon which the street railway will operate. In its discretion, a road authority may approve or disapprove an operating license agreement. A road authority's decision regarding an agreement will be final and binding upon a street railway and other interested people.

The street railway must pay the road authority for all of its costs incurred in constructing the street railway system, mitigating the impact of the system on road users, the environment, and the surrounding neighborhoods, and modifying the streets or highways affected by the construction of the system.

After a road authority consents to the acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining of a street railway system on the streets or highways of the road authority, or grants a right or privilege to the street railway by entering into an operating license agreement with the street railway, the road authority may not revoke the consent or deprive the street railway of the rights and privileges conferred without giving it procedural due process of law if and to the extent provided in the operating license agreement.

(The bill defines "road authority" as each governmental agency with jurisdiction over public streets and highways. The term includes MDOT, any other State agency, and intergovernmental, county, city, and village governmental agencies responsible for the construction, repair, and maintenance of streets and highways. When a street railway operates or seeks to operate a street railway system over public streets and highways over which more than one road authority has jurisdiction, "road authority" means each road authority with jurisdiction over those streets and highways.)

Authorized Activities

The bill authorizes a street railway to acquire, own, construct, furnish, equip, complete,

operate, improve, and maintain a street railway system upon public or private rights-of-way, and obtain easements when necessary for the street railway to acquire and use private property for acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway system.

A street railway also may do one or more of the following:

- Acquire by gift, devise, transfer, exchange, purchase, lease, or otherwise on terms and conditions and in a manner the street railway considers proper, property or rights or interests in property relating to the operation of the street railway or street railway system.
- Take, transport, or carry and convey people and property on a street railway system and receive just and fair compensation from users of the system for that purpose.
- Erect and maintain all necessary and convenient buildings, structures, stations, depots, fixtures, and machinery for the accommodation and use of people and property transported by the street railway.
- Regulate the time and manner in which people and property may be transported by the street railway and fares or other compensation may be paid for that purpose; and charge just and fair compensation for the use of its street railway system.
- Transfer a street railway system to a public entity operating a public transportation system if the transfer is authorized by a law enacted after the bill's effective date.

A street railway may borrow money and issue bonds and notes for any indebtedness incurred and may mortgage its street railway property and rights to secure the payment of bonds, notes, money borrowed, and any and all debts and liabilities that the street railway may incur. A street railway may not use tax increments to repay bonds and notes.

Previously, a street railway company could construct, use, maintain, and own a street railway upon private rights-of-way, and, when necessary to enter upon private property in the construction and operation of the railway, the company had the same

power and right of eminent domain as railway companies possess. The bill deleted that provision.

Previously, a corporation organized under the Act could generate and transmit for itself and furnish and sell electric power, subject to the regulations of cities, villages, and townships where it was sold and subject to all State laws relative to the regulation of generating, transmitting, selling, or distributing electricity for any purpose under the Act. The bill deleted those provisions. Instead, subject to applicable law and regulations of the State, a city, a township, or a village, a street railway may generate, store, transmit, distribute, dispense, furnish, or use electricity and electric power for the street railway and the street railway system.

The bill allows a street railway to remove a person from a streetcar, tram, or trolley at a usual stopping place if he or she refuses to pay a fare owed to the street railway or refuses to obey its regulations for the convenience and safety of passengers.

Grades; Track; Construction

Previously, in constructing its railways, every street railway company had to conform to the grades established by the common council or other corporate authorities of the city, village, or township, for the street traversed by the street railway, and the company could not alter or change the grade of the line or any street without first obtaining the consent of the council or other corporate authorities. The bill deleted these provisions.

Under the bill, in constructing a street railway system, a street railway must conform to grades established by a road authority for a public street or highway traversed by the street railway. A street railway may not alter or change the grade or line of any public street or highway without the consent of the road authority with public jurisdiction over that street or highway.

The bill requires a street railway to lay and maintain the track of a street railway system in a manner and with the type of track to keep the track and the pavement adjacent to it in a state of condition and repair as prescribed by the road authority with jurisdiction over the public street or highway.

The Act previously permitted the common council or other corporate authorities of the city or village in which any street railway was located to establish and prescribe rules and regulations in regard to the railway as required for grading, paving, and repairing the street, and the construction of sewers, drains, reservoirs, and crossings, and the laying of gas and water pipes, upon, in, and along the streets traversed by the railroad, and to prevent obstructions on the railway.

Under the bill, instead, a road authority may establish and prescribe rules and regulations applicable to a street railway operating in or upon a public street or highway under its jurisdiction relating to one or more of the following:

- Grading, paving, obstruction, or repairing of a street or highway.
- Construction, maintenance, or obstruction of public service facilities and infrastructure, including water, light, heat, power, sewage disposal, and transportation.
- Construction, maintenance, or obstruction of traffic control and parking control facilities and infrastructure.

Criminal Offenses

Under the bill, a person who causes or attempts to cause the derailment of a streetcar, tram, or trolley of a street railway by placing an impediment upon the track, whether the streetcar, tram, or trolley is dislodged or not, or who by any other means willfully endangers or attempts to endanger the life of any person engaged in the work of the street railway, or any person traveling on the streetcar, tram, or trolley of the street railway, is guilty of a felony punishable by imprisonment for life or any number of years. Proof that the person intended to injure or endanger the life of any particular person is not required to prove a violation.

A person who throws a stone, brick, or other missile at a streetcar, tram, or trolley of a street railway is guilty of a misdemeanor punishable by a fine of not less than \$100 or more than \$500 or imprisonment for not less than 10 days or more than 90 days, or both.

Other Provisions

Under the bill, if a street railway requests a public utility to modify or relocate facilities of the public utility that lie within a public street or highway right-of-way, or if, in response to the construction, expansion, or modification of a street railway system a public utility determines that it should modify or relocate its facilities, consistent with law, regulation, or good utility practice, and unless the public utility and the street railway agree otherwise, the street railway must pay all costs of the relocation and modification of the facilities to the public utility.

Within 30 days of the bill's effective date, the Secretary of State (SOS) or any other agency having records of a street railway formed under the Act before the bill's effective date had to certify and transfer the records to the Bureau of Commercial Services within DELEG.

Any entity formed on or after the bill's effective date for the purpose of acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway or street railway system must be organized under the Nonprofit Street Railway Act.

The bill specifies that a street railway is not subject to the Railroad Code.

Previously, every company incorporated under the Act, for the purposes of constructing a railway, had to cease being a body corporate, if within one year from the time of filing its articles of association with the SOS, it had not begun construction of the railway and spent at least 10% of its capital stock. The bill deleted those provisions.

Repeals

The bill repealed the following sections of the Act:

- Section 2, which permitted three or more people desiring to form a corporation under the Act to do so by establishing articles of association.
- Section 4, which prescribed capitalization requirements that had to be met before

- articles of association could be filed with the SOS.
- Sections 6 and 8, which established the composition and functions of the board of directors of a corporation under the Act.
 - Section 10, which prescribed the powers of the president and the directors of a street railway corporation.
 - Section 12, which dealt with the distribution of shares of stock in a corporation.
 - Section 14, which prohibited a city, village, or township that had consented to the construction and maintenance of a street railway from revoking its consent.
 - Section 16, which permitted a street railway company to issue bonds, and to mortgage its property and franchises to secure payment of those bonds and any other liabilities.
 - Section 18, which required a street railway to lay track in such a way to keep the railway and the adjacent pavement in a condition and state of repair as provided in its agreement with the municipal authority.
 - Section 20, which required tolls and fares to be established by agreement between the company and the corporate authorities of the city or village where the street railway was located.
 - Section 22, which pertained to the liability of company stockholders.
 - Section 24, which limited lawsuits against individual stockholders.
 - Section 25, which required the directors of a company formed under the Act to submit an annual report to the SOS.
 - Section 28, which prescribed a penalty for willfully obstructing, breaking, injuring, or destroying any railway or any part of a railway under the Act.
 - Section 29, which dealt with the rights, powers, and liabilities of companies existing when the Act took effect.
 - Section 30, which required all companies and corporations formed for the purpose of constructing, owning, or using any street railway for the transportation of people and passengers in any city or village to be organized under the Act and to be subject to other statutes relating to corporations.
 - Section 31, which dealt with the right-of-way at track crossings.
 - Section 31a, which permitted elevated railway companies to be organized under the Act.

- Section 32, which required streetcar drivers to bring cars to a stop before going on a street railway crossing or a railroad track, and established a \$25 fine for failure to do so.
- Section 34, which permitted a corporation organized under the Act to do a suburban express business and to carry farm produce, garden truck, milk, merchandise, and other light freight.
- Section 35, which made all street railway corporations under the Act subject to the supervisory control of the Commissioner of Railroads.
- Section 36, which prescribed a maximum penalty of life imprisonment for obstructing a railway track.

The bill also deleted provisions relating to the issuance of capital stock in a corporation under the Act, powers of the board of directors, and the payment of dividends. In addition, the bill deleted provisions permitting a railway company to purchase, acquire, or hire any street railway owned by another corporation or company, and to acquire, own, lease, or hire motor vehicles incident to its business.

Senate Bill 1589

Transit Operations Finance Zone

At the request of a street railway, and with the consent of MDOT, the bill permits a city, village, or township in which a street railway system is located to establish a transit operations finance zone for a street railway system if the city, village, or township and MDOT determine that it is necessary for the best interests of the public to promote and finance transit operations in a zone. A parcel may not be included in more than one zone.

The boundaries of a zone must be established by the city, village, or township and may include parcels that are entirely or partly up to one-quarter mile from the street railway system. Before establishing a zone, the city, village, or township must consult with the street railway, MDOT, affected taxing jurisdictions, and any other person or entity that the city, village, or township considers necessary. The city, village, or township may conduct a planning study and may designate a zone before implementation of street railway system service within the zone.

If the city, village, or township and MDOT determine that it is necessary for the best interests of the public to promote and finance transit operations in a zone, the city, village, or township must enter into an agreement with the street railway and MDOT for the creation of a zone. The agreement must indicate the geographic boundaries of the zone, including the designation of its boundaries in relation to highways, streets, streams, lakes, other bodies of water, or otherwise; and the location and extent of streets and other public facilities within the zone, designating the location, character, and extent of the categories of public and private land uses existing in the zone, and including a legal description of the zone.

The agreement also must include at least all of the following:

- A tax increment financing plan for the zone.
- A description of specific actions to be taken by the parties under the agreement to help establish the zone.
- The requirement that amendments to the agreement be approved by the city, village, or township, MDOT, and the street railway.
- Any other material that the city, village, or township, MDOT, or the street railway considers necessary or appropriate.

An agreement designating a zone and establishing its boundaries and any amendments to the agreement must be filed by the city, village, or township with the Secretary of State.

Before entering into an agreement for the creation of a zone, a city, village, or township must conduct a public hearing on the proposed agreement, and publish notice of the public hearing as provided in the bill. A citizen, taxpayer, or property owner of the city, village, or township, or an official from a taxing jurisdiction within the zone has the right to be heard on the agreement and the proposed boundaries of the zone.

The agreement may not include in the zone land not included in the description contained in the notice of the public hearing, but the agreement may exclude described land from the zone in the final determination of its boundaries.

The city, village, or township and MDOT may abolish the zone if they find that the purposes for which it was established are accomplished.

Tax Increment Financing Plan

The bill requires a tax increment financing plan for a zone to include a description of the tax increment financing procedure, the distribution of TIF revenue to the street railway, and a statement of the estimated impact of tax increment financing on the assessed value of property in each taxing jurisdiction in the zone. The plan may exclude from captured assessed value growth in property value resulting solely from inflation and, if it does, the plan must include the method for excluding that growth.

The plan must require that tax increment revenue received by a street railway be used only for the expenses of operating the street railway system. The plan must restrict the revenue distributed to a street railway for any tax year to 25.0% of any operating deficit of the street railway for the prior fiscal year or \$4.0 million, whichever is less. If the street railway subject to an agreement designating a zone ceases to operate a street railway in the city, village, or township that established the zone, the plan must terminate and the zone must be abolished.

Before including a TIF plan in an agreement, the city, village, or township must give taxing jurisdictions in the zone levying taxes subject to capture under the plan an opportunity to meet with the city, village, or township. The city, village, or township must fully inform the taxing jurisdictions of the fiscal and economic implications of the plan. The taxing jurisdictions may present their recommendations on the plan to the city, village, or township.

(The bill contains definitions of "assessed value", "initial assessed value", "specific local tax", and "tax increment revenues".)

Distribution of Revenue; Report

The bill requires the municipal and county treasurers to transmit tax increment revenue to the treasurer of the city, village, or township in which the street railway system is located for distribution to the

street railway according to the TIF plan and the agreement. The street railway may spend the tax increment revenue only under the terms of the TIF plan. Unused funds must revert proportionally to the respective taxing bodies. Tax increment revenue may not be used to circumvent existing property tax limitations.

Annually, the city, village, or township, with assistance from the street railway, must submit to MDOT and the State Tax Commission a report on the status of the TIF revenue. The report must include all of the following:

- The amount and source of tax increment revenue received by the street railway.
- The amount and purpose of expenditures from tax increment revenue.
- The initial assessed value of the zone.
- The captured assessed value retained within the zone.
- A description of operating expenditures of the street railway.

Enforcement & Administration

The State Tax Commission may institute proceedings to compel enforcement of the bill's provisions, and may promulgate rules necessary for their administration.

Senate Bill 1588

Under the MTF law, "transit vehicle" means a bus, rapid transit vehicle, railroad car, water vehicle, taxicab, or other type of public transportation vehicle or individual unit, whether operated singly or in a group that provides public transportation. The bill includes a street railway car in that definition.

"Public transportation", "comprehensive transportation", and other similar terms mean the movement of people and goods by publicly or privately owned water vehicle, bus, railroad car, aircraft, rapid transit vehicle, taxicab, or other conveyance that provides general or special service to the public, but not including charter or sightseeing service or transportation that is exclusively for school purposes. The definition states that those purposes are transportation services within the meaning of Article IX, Section 9 of the State Constitution (which requires that all fuel taxes be used exclusively for transportation

purposes). The bill includes a street railway within that definition.

Senate Bill 1590

Under the bill, for each fiscal year beginning after September 30, 2009, the Governor and the State Budget Director must include in the annual budget submitted to the Legislature for the ensuing fiscal period, an appropriation from a fund or funds other than the Comprehensive Transportation Fund (CTF) to a street railway organized under the Nonprofit Street Railway Act. The appropriation must equal the difference between the annual operating expenses of the street railway and the revenue it received during the same annual period, including TIF revenue. The appropriation may not exceed 8.0% of the total private investment in the street railway as determined by MDOT.

The MTF law identifies the order of priority for appropriation of the CTF. After payment of the principal and interest on bonds and notes issued under the law and MDOT's cost in administering the CTF, the third priority is the payment of operating grants to eligible authorities and eligible governmental agencies according to particular formulations and requirements. The bill specifies that a street railway is not an eligible authority or eligible governmental agency for this purpose.

Senate Bill 1592

The State Transportation Preservation Act states that there exists a need to improve authorization for financial assistance for the capital improvement, maintenance, and operation of rail, intercity bus, and ferry services in the State. The bill also refers to street railway services.

The Act permits MDOT to provide financial assistance in the form of grants, leases, loans, and purchases for the maintenance of a railroad as provided under State or Federal law. The bill also permits MDOT to provide those forms of financial assistance for the maintenance of a street railway.

The Department may act as agent for the State, a person, a public or private corporation, a local or regional transportation authority, a local governmental unit, a

private carrier, a group of rail users, or a combination of those entities for the maintenance of a railroad in the State. Under the bill, that provision also applies to the maintenance of a street railway.

The Act authorizes MDOT to spend appropriated money and other available funds for the construction, modernization, rehabilitation, rebuilding, or relocation of rail property, and to perform or contract for maintenance or improvements on rail property owned by the State, a person, a public or private corporation, a local or regional transportation authority, a local governmental unit, a private carrier, a group of rail users, or a combination of those entities, as necessary in the public interest. Under the bill, that provision includes a street railway, and those activities must be in the public interest as determined by MDOT.

In addition, the Act permits MDOT to contract with a person, firm, or public or private corporation to provide rail, intercity bus, or ferry service deemed by the Department to be in the best interest of the State. The bill also permits MDOT to contract with one of those entities to provide street railway service.

Under the bill, "street railway" means that term as defined in the Nonprofit Street Railway Act.

- MCL 247.660c (S.B. 1588)
- 472.1 et al. (S.B. 1589)
- 247.660e (S.B. 1590)
- 474.51 et al. (S.B. 1592)
- 472.1 (H.B. 6542)
- 450.2123 (H.B. 6543)
- 462.109 et a. (H.B. 6546)
- 777.14m (H.B. 6625)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 1588

The bill will have no fiscal impact on State or local government. While not affecting the total amount of funds spent by the State for public transportation, the bill may affect the distribution of those funds in that it adds street railways to the list of entities eligible for funding.

Senate Bill 1589 and House Bill 6542

Tax Increment Financing

Senate Bill 1589 will reduce local unit revenue by an unknown amount, depending on whether any tax increment zones are created and whether a street railway would have been created in the absence of House Bill 6542. If a company would have been created and established a railway line absent the House bill, then the actual amount of the reduction will depend upon the characteristics of the property within any tax increment zone created under the Senate bill.

The Department of Treasury estimated that revenue captured by tax increment financing authorities during FY 2007-08 totaled approximately \$300.0 million.

Criminal Penalties

There are no data to indicate how many offenders will be convicted of the new misdemeanor under House Bill 6542. To the extent that the bill increases incarceration time, local governments will incur the costs of incarceration in local facilities, which vary by county. Penal fine revenue will benefit public libraries.

There are no data to indicate how many offenders have been convicted of willfully obstructing, breaking, injuring, or destroying any railway under Section 28. To the extent that the repeal of this section decreases incarceration time, local governments will save the costs of incarceration in local facilities.

The penalty for causing the derailment of a streetcar, tram, or trolley, or endangering a person working or traveling on a streetcar, tram, or trolley, is the same under the bill as under previous law.

Senate Bill 1590

The bill requires that, beginning in FY 2009-10, the Governor's budget recommendation include an annual appropriation from a fund other than the Comprehensive Transportation Fund for an operating grant for street railways. The amount of the grant is to be equal to the difference between the annual operating expenses of the street railway and the revenue it generated

(including tax increment revenue). The operating grant is not to exceed 8.0% of total private investment in the railway. The exact fiscal impact of the bill cannot be determined at this time.

**Senate Bill 1592 and
House Bills 6543, 6546, and 6625**

The bills will have no fiscal impact on State or local government.

Fiscal Analyst: Lindsay Hollander
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David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.