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 BILL ANALYSIS

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Senate Bills 1588 through 1594 (as introduced 11-5-08)

Sponsor: Senator Jud Gilbert, II (S.B. 1588)
 Senator Jason E. Allen (S.B. 1589)
 Senator Tupac A. Hunter (S.B. 1590)
 Senator Jim Barcia (S.B. 1591)
 Senator Bill Hardiman (S.B. 1592)
 Senator Cameron S. Brown (S.B. 1593)
 Senator Gerald Van Woerkom (S.B. 1594)

Committee: Transportation

Date Completed: 11-12-08

CONTENT

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

Senate Bill 1589 would amend Public Act 35 of 1867 (which deals with street railway companies) to do the following:

- Repeal or delete almost all current provisions of the Act.
- Name the Act the "Nonprofit Street Railway Company Act".
- 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 qualified nonprofit corporation that met certain criteria to become a street railway in a qualified city (one with an automated light rail system operating on an elevated single track loop of at least two miles) if the corporation amended its articles of incorporation to include certain provisions.
- Prohibit a street railway company from constructing a railway system on the streets and highways of a

road authority without its consent and unless the company accepted any terms and conditions imposed by the authority.

- Authorize a street railway to obtain property under the Uniform Condemnation Procedures Act, in the same manner as a railroad.
- Permit a street railway to borrow money and issue bonds, and mortgage its property and rights to secure the payment of bonds and other liabilities.
- Prohibit a street railway from using tax increments to repay bonds and notes.
- Permit a street railway to generate, store, transmit, or use electricity and electric power for the street railway and the street railway system, or to sell to other people or entities.
- Make it a felony, punishable by up to life imprisonment, for a person to cause or attempt to cause the derailment of a streetcar, tram, or trolley of a street railway or otherwise willfully endanger or attempt to endanger the life of any person working on the railway or traveling on the streetcar, tram or trolley.
- Provide that a person who threw a stone, brick, or other missile at a streetcar, tram, or trolley of a street

railway would be guilty of a misdemeanor.

- Permit the Michigan Department of Transportation (MDOT), at the request of a street railway, to establish a Transit Development Finance Zone for a street railway if MDOT determined that promoting and financing transit development in the zone were in the public interest.
- Require MDOT to enter into an agreement with the affected municipalities and the street railway to create a zone.
- Require the agreement to include a tax increment financing plan for the zone, along with other information.
- Require the street railway to submit to MDOT and the State Tax Commission an annual report on the status of the tax increment financing revenue.

Senate Bill 1590 would amend the MTF law to require that, in fiscal year 2010-11 and each subsequent fiscal year, a street railway organized under the Nonprofit Street Railway Company Act receive a grant from the MTF equal to the difference between 8% of the total private investment and the revenue received by the street railway during that annual period.

Senate Bill 1591 would amend the Nonprofit Corporation Act to include a street railway under the Nonprofit Street Railway Company Act as a nonprofit corporation.

Senate Bill 1592 would amend 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 deemed to be in the best interest of the State.

Senate Bill 1593 would amend the Railroad Code to specify that it would not apply to a street railway organized under the Nonprofit Street Railway Company Act; and to exclude from the definitions of "street railway" and "street railway system" a street railway

system organized under the Nonprofit Street Railway Company Act.

Senate Bill 1594 would amend the Code of Criminal Procedure to include within the sentencing guidelines for causing the 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 would be a class A felony against the public safety, with a statutory maximum of life imprisonment.

Senate Bill 1594 is tie-barred to Senate Bill 1589. Senate Bills 1588, 1589, 1590, and 1592 are described in detail below.

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 would include 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 declares 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 would include a street railway within that definition.

Senate Bill 1589

Purpose; Interpretation of Act

The bill would add the following statement to the Nonprofit Street Railway Company Act: "The legislature finds and declares that there exists in the state a need to encourage the development of transportation facilities by authorizing the acquiring, owning, constructing, furnishing, equipping,

completing, operating, improving, and maintaining of nonprofit street railway companies and systems and that state assistance...[in those activities] is declared to be a public purpose."

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

The powers conferred in the bill upon a street railway would be in addition to any other powers the street railway possesses under law. Except as otherwise provided, the provisions of the bill would apply notwithstanding any resolution, ordinance, or chapter provision to the contrary.

The bill would define "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" would mean the facilities, equipment, and personnel required to provide and maintain a public transportation system operated on rails principally within a city, village, or township using streetcars, trolleys, or trams for the transportation of people or property.

Articles of Association

The Act permits 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 must be signed by those associating, and must include 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 would delete those provisions.

After the bill's effective date, one or more people could organize a nonprofit corporation under the Act and the Nonprofit

Corporation 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.

("Nonprofit corporation" would mean that term as defined in the Nonprofit Corporation Act, i.e., a corporation incorporated to carry out any lawful purpose or purposes not involving pecuniary profit or gain for its directors, officers, shareholders, or members.)

The articles would have to include the following:

- The name of the street railway, which could include the words "rail", "railway", "street railway", "light rail", or "metro rail".
- The purpose for which the corporation was organized, which would have to 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 would operate principally.

The articles of incorporation would have to be filed with the Bureau of Commercial Services of the Department of Labor and Economic Growth (DLEG) as provided under the Nonprofit Corporation Act. That Act would apply to a street railway organized under the bill unless otherwise provided in or inconsistent with the provisions of the bill.

A qualified nonprofit corporation could become a street railway under the Nonprofit Street Railway Company Act and acquire, own, construct, furnish, equip, complete, operate, improve, and maintain a street railway system in a qualified city if, on and after the bill's effective date, the articles of incorporation were amended to include the following provisions:

- A provision authorizing the name of the corporation, to include the words "rail", "railway", "street railway", "light rail", or "metro rail".
- A provision including among the purposes for which the corporation is organized the purpose of acquiring, owning, constructing, furnishing, equipping,

completing, operating, improving, and maintaining a street railway system.

- A provision indicating the qualified city in which the street railway system would operate principally.

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

("Qualified city" would mean a city in this State that contains an automated light rail system that operates on an elevated single track loop of at least two miles that is operated and maintained by a public body corporate formed under the Urban Cooperation Act, for the purpose of acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, or disposing of a central automated transit system.

"Qualified nonprofit corporation would mean a nonprofit corporation organized before the bill's effective date that includes among the purposes for which it was organized the authorization to plan, design, construct, equip, furnish, and operate for itself or by contract a public transportation facility, that includes street railways, motor bus, tram lines, monorails, hovercraft, and rail rapid transit; and that is authorized to use in its name or as its name the words "rail", "light rail", or "metro rail".)

Street Railway Company

Currently, any street railway corporation organized under the Act may, with the consent of the corporate authorities of any city or village, 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 that are designated and granted for that purpose. A street railway company may not construct any railway system in the streets of any city or village until it has accepted in writing any terms and conditions for the use of those streets. Any such company may 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 may 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 would delete those provisions. Instead, a street railway could 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 consent, on terms and conditions approved by the road authority. When operating in and upon the streets and highways of a road authority, a street railway would be subject to rules, regulations, or ordinances imposed by the authority. A street railway company could not construct any street railway system in and upon the streets and highways of a road authority until it accepted in writing any terms and conditions imposed by the authority.

("Road authority" would mean a governmental agency having jurisdiction over public streets and highways. The term would include MDOT, any other State agency, and intergovernmental, county, city and village governmental agencies responsible for the construction, repair, and maintenance of streets and highways.)

After a road authority consented to the acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining of a street railway system on the streets and highways of the road authority or granted a right or privilege to the street railway, the road authority could not revoke the consent or deprive the company of the rights and privileges conferred without affording the street railway procedural due process of law.

Under the Act, in constructing its railways, every street railway company must 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 may 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 would retain those provisions, but would refer to grades established by a road authority. A street railway could not alter or

change the grade or line or any public street or highway without the consent of the road authority with public jurisdiction over that street or highway.

("Public street or highway" would mean any improved thoroughfare maintained by a road authority that has been dedicated and constructed in accordance with law.)

A street railway would have 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 permits the common council or other corporate authorities of the city or village in which any street railway is 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 could 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 subjects:

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

Eminent Domain

Currently, a street railway company may 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, has the same power and right of eminent domain as is possessed by railway companies.

The bill would delete those provisions. Instead, a street railway could acquire, own, construct, furnish, equip, complete, operate,

improve, and maintain a street railway system upon private rights of way, when it was necessary for the company to enter upon and use private property for acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway system. The street railway would have the power and right to obtain property under the Uniform Condemnation Procedures Act, in the same manner as a railroad under the Railroad Code.

Authorized Activities

A street railway could 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 considered 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 compensation for that purpose.
- Erect and maintain all necessary and convenient buildings, structures, stations, depots, fixtures, and machinery for the accommodation and use of the street railway passengers and property transported by the street railway.
- Regulate the time and manner in which people and property could be transported by the street railway and fares or other compensation that could be paid for that purpose.

A street railway would have to charge just and fair compensation for the use of its street railway system.

Except as otherwise provided, a street railway could borrow money and issue bonds and notes for any indebtedness incurred and could 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 could incur. A street railway could not use tax increments to repay bonds and notes.

Currently, any corporation organized under the Act may generate and transmit for itself and furnish and sell electric power, subject to the regulations of cities, villages, and

townships where it is 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 would delete those provisions.

Instead, subject to applicable law and any applicable regulations of a county, city, township, or village, a street railway could do one or more of the following:

- Generate, store, transmit, distribute, dispense, furnish, or use electricity and electric power for the street railway and the street railway system.
- Generate, store, transmit, distribute, dispense, furnish, or sell electricity and electric power to other people or entities.

If a person refused to pay a fare owed to a street railway or refused to obey regulations it established for the convenience and safety of passengers, the street railway could remove the person from the streetcar, tram, or trolley at a usual stopping place.

Violations

Under the bill, a person who caused or attempted 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 was dislodged or not, or who by any other means willfully endangered or attempted 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, would be 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 would not be required to prove a violation of those provisions.

A person who threw a stone, brick, or other missile at a streetcar, tram, or trolley of a street railway would be 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.

Tax Increment Financing

Transit Development Finance Zone. The bill would permit MDOT, at the request of a street railway, to establish a transit

development finance zone for a street railway system if MDOT determined that it was necessary for the best interests of the public to promote and finance transit development in a zone. A parcel could not be included in more than one zone. ("Parcel" would mean an identifiable unit of land that was treated as separate for valuation or zoning purposes.)

The boundaries of a zone would have to be established by MDOT and could include parcels that were within one mile from a street railway system operated by the street railway. Before establishing a zone, MDOT would have to consult with affected municipalities, counties, street railways, public transportation agencies, private transportation providers, and any other person or entity that it considered necessary before designating a zone. The Department could conduct a planning study and could designate a zone in advance of implementation of street railway system service associated with a zone.

To create a zone, MDOT would have to enter into an agreement with the affected municipalities and the street railway. The agreement would have to include the geographic boundaries of the zone, including the designation of boundaries in relation to highways, streets, streams, lakes, other bodies of water, or otherwise; and the location and extent of existing streets and public facilities within the zone, designating the location, character, and extent of the categories of public and private land uses then existing in the zone, including residential, recreational, commercial, industrial, educational, and other uses, and including a legal description of the zone.

The agreement also would have to include 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 amendment to the agreement would have to be approved by MDOT, affected municipalities, and the street railway.
- Any other material that MDOT, affected municipalities, or the street railway considered necessary or appropriate.

An agreement designating a zone and establishing its boundaries and any amendments to the agreement would have to be filed with MDOT and the Secretary of State.

Tax Increment Financing Plan. A tax increment financing (TIF) plan would have to include a detailed explanation of the tax increment procedure and a statement of the estimated impact of tax increment financing on the assessed value of all taxing jurisdictions in which the zone was located. The plan would have to provide for the use of part or all of the captured assessed value by the street railway for the expenses of operating the street railway, with any portion used clearly stated in the tax increment financing plan. The Department and affected municipalities could exclude from captured assessed value growth in property value resulting solely from inflation. The plan would have to set forth the method for excluding growth in property value resulting solely from inflation.

Before including a TIF plan in an agreement, MDOT would have to provide a reasonable opportunity to the taxing jurisdictions levying taxes subject to capture to meet with MDOT. The Department would have to inform the taxing jurisdictions fully of the fiscal and economic implications of the plan. The taxing jurisdiction could present their recommendations to MDOT on the plan.

("Assessed value" would mean the taxable value as determined under the General Property Tax Act. "Captured assessed value" would mean the amount in any one year by which the current assessed value of a zone, including the assessed value of property for which specific local taxes were paid in lieu of property taxes, exceeded the initial assessed value. The State Tax Commission would have to prescribe the method for calculating captured assessed value.

"Initial assessed value" would mean the assessed value of all the taxable property within the boundaries of a zone at the time MDOT approved the tax increment financing plan, as shown by the most recent assessment roll of the municipality at the time the plan was adopted. Property exempt from taxation at the time of the determination of the initial assessed value would have to be included as zero. For the

purpose of determining initial assessed value, property for which a specific local tax was paid in lieu of a property tax could not be considered to be property exempt from taxation.)

Distribution of Revenue. Before a TIF plan was implemented, MDOT would have to enter into a contract with the street railway included within the zone. The contract would have to include terms regarding the distribution of revenue.

The municipal and county treasurers would have to transmit tax increment revenue to the street railway. The street railway could spend the tax increment revenue only under the terms of the TIF plan. Unused funds would revert proportionally to the respective taxing bodies. Tax increment revenue could not be used to circumvent existing property tax limitations. The Department could abolish the TIF plan if it found that the purposes for which the plan was established were accomplished.

(Tax increment revenue would mean the amount of ad valorem property taxes and specific local taxes attributable to the application of the levy of all taxing jurisdictions upon the captured assessed value of real and personal property in the zone. Tax increment revenue would not include the following:

- Taxes under the State Education Tax Act.
- Taxes levied by local or intermediate school districts.
- Ad valorem property taxes attributable either to a portion of the captured assessed value shared with taxing jurisdictions within the jurisdictional area of the authority or to a portion of value of property that may be excluded from captured assessed value or specific local taxes attributable to the ad valorem property taxes.
- Ad valorem property taxes excluded by the TIF plan of the authority from the determination of the amount of tax increment revenue to be transmitted to the authority or specific local taxes attributable to the ad valorem property taxes.
- Ad valorem property taxes exempted from capture that are due to growth in property value resulting solely from inflation or specific local taxes

attributable to the ad valorem property taxes.

- Ad valorem property taxes specifically levied for the payment of principal and interest of obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit or specific taxes attributable to those ad valorem property taxes.)

Revenue Report. Annually, the street railway, with assistance from MDOT, would have to submit to MDOT and the State Tax Commission a report on the status of the TIF revenue. The report would have to 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 on the street railway.
- Any additional information that MDOT or the Commission considered necessary.

The State Tax Commission could institute proceedings to compel enforcement of those provisions, and could promulgate rules necessary for the administration of those provisions under the Administrative Procedures Act.

The Department of Treasury and the Commission could assist MDOT in performing duties and responsibilities regarding TIF plans.

Other Provisions

Currently, every company incorporated under the Act, for the purposes of constructing a railway, must cease to be a body corporate, if within one year from the time of filing its articles of association with the Secretary of State, it has not commenced construction of the railway and spent at least 10% of its capital stock. The bill would delete those provisions.

Within 30 days of the bill's effective date, the SOS or any other agency having records of a street railway company formed under the Act before the bill's effective date would have to certify and transfer the records to

the Bureau of Commercial Services within DLEG.

A street railway would not be subject to the Railroad Code of 1993.

Repeals

The bill would repeal the following sections of the Act:

- Section 2, which permits three or more people desiring to form a corporation under the Act to do so by establishing articles of association.
- Section 4, which prescribes certain capitalization requirements that must be met before articles of association can be filed with the Secretary of State.
- Sections 6 and 8, which establish the composition and functions of the board of directors of a corporation under the Act.
- Section 10, which prescribes the powers of the president and the directors of a street railway corporation.
- Section 12, regarding the distribution of shares of stock in a corporation.
- Section 14, which prohibits a city, village, or township that has consented to the construction and maintenance of a street railway from revoking its consent.
- Section 16, which permits 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 requires 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 requires tolls and fares to be established by agreement between the company and the corporate authorities of the city or village where the street railway is located.
- Section 22, regarding the liability of company stockholders.
- Section 24, which limits lawsuits against individual stockholders.
- Section 25, which requires the board of directors to issue an annual report to the Secretary of State.
- Section 28, which provides a penalty for willfully obstructing, breaking, injuring, or destroying any railway or any part of a railway under the Act.

- Section 29, regarding the rights, powers, and liabilities of existing companies when the Act took effect.
- Section 30, which requires 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 deals with the right-of-way at track crossings.
- Section 31a, which permits elevated railway companies to be organized under the Act.
- Section 32, which requires streetcar drivers to bring cars to a stop before going on a street railway crossing or a railroad track, and establishes a \$25 fine for failure to do so.
- Section 34, which permits 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, with certain restrictions.
- Section 35, which makes all street railway corporations under the Act subject to the supervisory control of the Commissioner of Railroads.
- Section 36, which prescribes a maximum penalty of life imprisonment for obstructing a railway track.

The bill also would delete 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 also would delete 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 1590

Under the MTF law, after payment of the principal and interest on bonds and notes issued under the law and MDOT's cost in administering the MTF, the third priority for MTF revenue is the payment of operating grants to eligible authorities and eligible governmental agencies according to specific formulations and requirements.

The bill would add to that provision a requirement that for the fiscal year ending

September 30, 2011, and each subsequent fiscal year, a street railway organized under the Nonprofit Street Railway Company Act receive a grant of a sum equal to the difference between 8% of the total private investment as determined by MDOT and the revenue received by the street railway during the same annual period, including tax increment revenue received by the street railway.

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 would refer 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 would permit 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 would apply to the maintenance of a street railway.

Under the bill, "street railway" would mean that term as defined in the Nonprofit Street Railway Company Act, i.e., a nonprofit corporation organized under that Act for the purpose of operating a street railway system other than a railroad train for transporting people or property.

Under the State Transportation Preservation Act, MDOT may spend appropriated money and other available funds for the construction, modernization, rehabilitation, rebuilding, or relocation of rail property, and may perform or contract for maintenance or improvement 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 is necessary in the public interest. Under the bill, that provision would include a street railway, and those activities would have to 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 would permit MDOT to contract with one of those entities to provide street railway service.

MCL 247.660c (S.B. 1588)
472.1 et al. (S.B. 1589)
247.660e (S.B. 1590)
450.2123 (S.B. 1591)
474.51 et al. (S.B. 1592)
462.109 (S.B. 1593)
777.14m (S.B. 1594)

Legislative Analyst: Curtis Walker

FISCAL IMPACT

Senate Bill 1588

The bill would 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 could affect the distribution of those funds in that it would add street railways to the list of entities eligible for funding.

Senate Bills 1589 and 1594

Tax Increment Financing

Senate Bill 1589 would reduce local unit revenue by an unknown amount, depending on whether any tax increment zones were created and whether a nonprofit street railway company would be created in the absence of the bill. If a company were to be created and establish a railway line absent the bill, then the actual amount of the reduction would depend upon the characteristics of the property within any tax increment zone created by the bill.

Unlike existing tax increment zones, which are specific to individual localities, the bill would allow the creation of a multijurisdictional zone. Furthermore, the area within the tax increment zone could

overlap areas of existing tax increment zones, such as downtown development authorities and local finance development authorities. The bill does not specify how tax increment revenue for each affected authority would be determined in the case of such an overlap. Depending on how an overlap was ultimately treated, the revenue to the street railway zone, existing authorities, and/or local units could be reduced revenue compared to current levels.

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

Criminal Penalties

The bill would have an indeterminate fiscal impact on local government. There are no data to indicate how many offenders would be convicted of the proposed misdemeanor. To the extent that the bill would increase incarceration time, local governments would incur the costs of incarceration in local facilities, which vary by county. Penal fine revenue would benefit public libraries.

There are no data to indicate how many offenders currently are convicted of willfully obstructing, breaking, injuring, or destroying any railway under Section 28. To the extent that the repeal of this section would decrease incarceration time, local governments would 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, would be the same under the bills as it is under current law.

Senate Bill 1590

The bill would require that, beginning in FY 2010-11, an annual appropriation be made from the Comprehensive Transportation Fund (CTF) for an operating grant for street railways. The amount of the grant would have to be equal to the difference between 8% of the total private investment in a street railway and the revenue generated by that street railway (including tax increment revenue). The operating grant for street railways would take priority over operating grants for other public transportation entities. Because overall expenditures from

the CTF would remain the same, the bill would result in a reduction in operating grants to other public transportation entities.

Senate Bills 1591, 1592, and 1593

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

Fiscal Analyst: Lindsay Hollander
Debra Hollon
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.