

Act No. 481  
Public Acts of 2008  
Approved by the Governor  
January 9, 2009  
Filed with the Secretary of State  
January 12, 2009  
EFFECTIVE DATE: January 12, 2009

**STATE OF MICHIGAN  
94TH LEGISLATURE  
REGULAR SESSION OF 2008**

**Introduced by Reps. Johnson, Leland, Donigan, Clemente and Gaffney**

# **ENROLLED HOUSE BILL No. 6542**

AN ACT to amend 1867 PA 35, entitled “An act to provide for the formation of street railway companies, defining their powers and duties and authorizing the construction, use, maintenance and ownership of street railways for the transportation of passengers, and for accumulating, storing, manufacturing, conducting, using, selling, furnishing and supplying electricity and electric power, by such companies,” by amending the title and sections 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, and 27 (MCL 472.1, 472.3, 472.5, 472.7, 472.9, 472.11, 472.13, 472.15, 472.17, 472.19, and 472.27) and by adding section 21; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

## **TITLE**

An act to provide for the formation of nonprofit street railway companies, defining their powers and duties and authorizing the construction, use, maintenance and ownership of street railways for the transportation of passengers, and for accumulating, storing, manufacturing, conducting, using, selling, furnishing and supplying electricity and electric power, by such companies; to prescribe powers and duties of certain state and local agencies and officials; to provide remedies and penalties; to provide for the establishment of a transit development finance zone; and to authorize the use of tax increment financing.

Sec. 1. This act shall be known and may be cited as the “nonprofit street railway act”.

Sec. 3. 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 acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining nonprofit street railway companies and systems in this state 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.

Sec. 5. (1) This act shall 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 this act and all powers granted in this act shall be broadly interpreted to effectuate the intent and purposes of this act and not as a limitation of powers.

(2) The powers conferred in this act upon a street railway shall be in addition to any other powers the street railway possesses under law.

(3) Unless permitted by the state constitution of 1963 or this 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 effective date of the amendatory act that added section 21 do not apply to a street railway. This subsection 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.

Sec. 7. As used in this act:

(a) "Department" means the department of transportation, the principal department of state government created under section 350 of the executive organization act of 1965, 1965 PA 380, MCL 16.450.

(b) "Nonprofit corporation" means that term as defined under section 108 of the nonprofit corporation act, 1982 PA 162, MCL 450.2108.

(c) "Public street or highway" means any state trunk line highway, county road, or city or village street maintained by a road authority.

(d) "Railroad" means that term as defined under section 109 of the railroad code of 1993, 1993 PA 354, MCL 462.109.

(e) "Operating license agreement" means an agreement entered into under section 13 by and among 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, including, but not limited to, each city, village, or township road authority in the city, village, or township in which the street railway operates or seeks to operate a street railway system.

(f) "Road authority" means each governmental agency with jurisdiction over public streets and highways. Road authority includes the department, 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 1 road authority possesses jurisdiction, road authority includes each road authority with jurisdiction over public streets and highways upon which the street railway operates or seeks to operate a street railway system.

(g) "Street railway" means a nonprofit corporation organized under this act for the purpose of operating a street railway system other than a railroad train for transporting persons or property.

(h) "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 utilizing streetcars, trolleys, light rail vehicles, or trams for the transportation of persons or property. Street railway system also includes necessary power feeds, signals, and stops or stations within a public right-of-way. Street railway system excludes facilities and improvements not required to maintain a public transportation system.

Sec. 9. (1) After the effective date of the amendatory act that added this subsection, 1 or more persons may organize a street railway under this 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 shall include all of the following:

(a) The name of the street railway, which shall include the words "rail", "railway", "street railway", "light rail", or "metro rail".

(b) The purpose for which the corporation is organized, which shall be limited to acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway system.

(c) The city, village, or township in which the street railway system will principally operate.

(2) Articles of incorporation shall be filed with the bureau of commercial services of the department of energy, labor, and economic growth as provided under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(3) The nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, shall apply to a street railway organized under this section unless otherwise provided in or inconsistent with this act.

Sec. 11. (1) A nonprofit corporation may become a street railway under this act and acquire, own, construct, furnish, equip, complete, operate, improve, and maintain a street railway system in a city if on and after the effective date of the amendatory act that added this subsection the articles of incorporation for the nonprofit corporation are amended to include all of the following provisions:

(a) A provision authorizing the name of the corporation, to include the words "rail", "railway", or "street railway", "light rail", or "metro rail".

(b) A provision detailing the purposes for which the corporation is organized, which shall be limited to purposes related to acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway system.

(c) A provision indicating the city in which the street railway system will principally operate.

(2) Amendments to the articles of incorporation of a nonprofit corporation under this section shall be adopted and filed with the bureau of commercial services of the department of energy, labor, and economic growth as provided under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(3) The nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, shall apply to a street railway organized under this section unless otherwise provided in or inconsistent with this act.

Sec. 13. (1) 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 the approval of the road authority, on terms and conditions imposed by the road authority. The approval shall be embodied in an operating license agreement by and among 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, including, but not limited to, a city, village, or township road authority located in the city, village, or township in which the street railway system operates or seeks to operate. The operating license agreement shall include the terms and conditions for operation of the street railway system. Before approving an agreement, a road authority shall hold a public hearing on the proposed operating license agreement. The hearing shall be held in the city, village, or township in which the street railway seeks to operate a street railway system and shall be held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Notice of the public hearing shall be provided not less than 20 days before the date of the hearing. One or more road authorities may conduct a joint public hearing under this section. At a public hearing, a street railway and a road authority may present information regarding the proposed operating licensing agreement as the street railway or the road authority deems appropriate. 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 road authority. A street railway shall not construct any street railway system in and upon the streets and highways of a road authority until the street railway accepts in writing any terms and conditions imposed by the road authority, the operating license agreement is approved under this section, and the agreement is filed with each road authority with jurisdiction over public streets and highways upon which the street railway will operate. A road authority has the power in its discretion to approve or disapprove an operating license agreement. A decision of a road authority regarding an operating license agreement shall be final and binding upon a street railway and other interested persons. The street railway shall pay the road authority for all of the road authority's costs incurred in constructing the street railway system, mitigating the impact of the street railway system on road users, the environment, and the surrounding neighborhoods, and modifying the streets or highways impacted by construction of the street railway system.

(2) A street railway may acquire, own, construct, furnish, equip, complete, operate, improve, maintain a street railway system upon public or private rights of way, and obtain easements when necessary for a street railway to acquire and use private property for acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway system.

(3) 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 affording the street railway procedural due process of law if and to the extent provided in the operating license agreement for the street railway.

(4) A street railway may do 1 or more of the following:

(a) 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.

(b) Take, transport, or carry and convey persons and property on a street railway system and receive just and fair compensation from users of the street railway system for that purpose.

(c) Erect and maintain all necessary and convenient buildings, structures, stations, depots, fixtures, and machinery for the accommodation and use of persons and property transported by the street railway.

(d) Regulate the time and manner in which persons and property may be transported by the street railway and fares or other compensation may be paid for that purpose. A street railway may charge just and fair compensation for the use of its street railway system.

(e) Borrow money and issue bonds and notes for any indebtedness incurred and may mortgage their street railway property and rights to secure the payment of bonds, notes, money borrowed, and any and all debts and liabilities which the street railway may incur. A street railway shall not use tax increments to repay bonds and notes.

(f) 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 effective date of the amendatory act that added section 21.

Sec. 15. (1) Subject to applicable law and applicable regulations of this 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 use or consumption by the street railway and the street railway system.

(2) 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 the public utility should modify or relocate the public utility's facilities, consistent with law, regulation, or good utility practice and unless the street railway and the public utility agree otherwise, the street railway shall pay all costs of the relocation and modification of the facilities to the public utility.

Sec. 17. (1) In constructing a street railway system, a street railway shall conform to grades established by a road authority for a public street or highway traversed by the street railway.

(2) A street railway shall 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 the public street or highway.

(3) A street railway shall 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 of the public street or highway adjacent to the track in a state of condition and repair as prescribed by the road authority with jurisdiction over the public street or highway.

Sec. 19. 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 the jurisdiction of a road authority relating to 1 or more of the following subjects:

(a) Grading, paving, obstruction, or repairing of a street or highway.

(b) Construction, maintenance, or obstruction of public service facilities and infrastructure, including water, light, heat, power, sewage disposal, and transportation.

(c) Construction, maintenance, or obstruction of traffic control and parking control facilities and infrastructure.

Sec. 21. (1) If a person refuses to pay a fare owed to a street railway or refuses to obey regulations established by the street railway for the convenience and safety of passengers, the street railway may remove the person from the streetcar, tram, or trolley at a usual stopping place.

(2) A person who causes or attempts to cause the derailment of a streetcar, tram, or trolley of a street railway by the placing of an impediment upon the track of a street railway, whether the streetcar, tram, or trolley is dislodged from the track or not, or who by any other means whatsoever 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 of this section.

(3) 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 \$100.00 or more than \$500.00 or imprisonment for not less than 10 days or more than 90 days, or both.

Sec. 27. (1) Within 30 days of the effective date of the amendatory act that added section 21, the secretary of state or any other agency having records of a street railway formed under this act prior to the effective date of the amendatory act that added section 21 shall certify and transfer the records to the bureau of commercial services of the department of energy, labor, and economic growth.

(2) Any entity formed on or after the effective date of the amendatory act that added section 21 for the purpose of acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining a street railway or street railway system shall be organized under this act.

(3) A street railway is not subject to the railroad code of 1993, 1993 PA 354, MCL 462.101 to 462.451.

Enacting section 1. Sections 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 25, 28, 29, 30, 31, 31a, 32, 34, 35, and 36 of 1867 PA 35, MCL 472.2, 472.4, 472.6, 472.8, 472.10, 472.12, 472.14, 472.16, 472.18, 472.20, 472.22, 472.24, 472.25, 472.28, 472.29, 472.30, 472.31, 472.31a, 472.32, 472.34, 472.35, and 472.36, are repealed.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

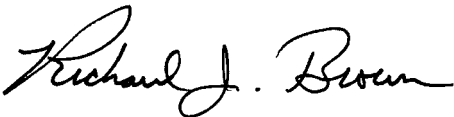
(a) Senate Bill No. 1588.

(b) Senate Bill No. 1589.

(c) Senate Bill No. 1590.

(d) Senate Bill No. 1592.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved \_\_\_\_\_

\_\_\_\_\_  
Governor