

HOUSE BILL No. 5731

December 18, 2009, Introduced by Reps. Johnson, Switalski and Donigan and referred to the Committee on Intergovernmental and Regional Affairs.

A bill to create a regional transit authority; to provide regional transportation; to prescribe certain powers and duties of the authority and of certain state agencies and officials; to authorize the levy of taxes and to provide for the issuance of bonds and notes; and to provide for the pledge of taxes, revenues, assessments, tax levies, and other funds for bond and note payments.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "regional transit authority act".

3 Sec. 2. As used in this act:

4 (a) "Authority" means a regional transit authority formed
5 under this act.

6 (b) "Board" means the governing body of an authority.

1 (c) "Chief executive officer" means the mayor or city manager
2 of a city or the county executive of a county or, if a county does
3 not have a county executive, the chairperson of the county board of
4 commissioners.

5 (c) "Governor's representative" means either the director of
6 the department of transportation of this state or the chairperson
7 of the state transportation commission, to be appointed to the
8 board by the governor under section 4 of this act.

9 (d) "Public transit" means the movement of people and goods by
10 publicly or privately owned bus, railroad car, rapid transit
11 vehicle, taxicab, or other conveyance which provides general or
12 special service to the public, but not including charter or
13 sightseeing service or transportation which is exclusively used for
14 school purposes. Public transit, as defined by this section, is
15 declared by law to be a transportation purpose within the meaning
16 of section 9 of article IX of the state constitution of 1963.

17 (e) "Public transit region" means an area consisting of any of
18 the following:

19 (i) A county in which a qualified city is located.

20 (ii) All other counties immediately contiguous to a qualified
21 city, in which an authority incorporated under this act operates a
22 public transit system or causes a public transit system to operate.

23 (iii) A county added to an authority under section 3 of this
24 act.

25 (f) "Public transit system" means all plants, equipment, work
26 instrumentalities, and real and personal property and rights, used
27 or useful for public transit.

1 (g) "Transit district" means any of the following:

2 (i) A qualified city, a county in which a qualified city is
3 located, or a county immediately contiguous to a qualified city.

4 (ii) A county added to an authority under section 3.

5 (h) "Qualified city" means a city with a population of more
6 than 700,000 according to the most recent decennial census.

7 Sec. 3. For a public transit region there shall be created an
8 authority, which shall become effective upon the appointment of all
9 members of the board of the authority, for the purpose of planning
10 acquiring, owning, operating, or causing to be operated, a public
11 transit system and carrying out the rights, duties, and obligations
12 provided in this act.

13 Sec. 4. (1) A county that is not included in the public
14 transit region and not a participant in the authority may petition
15 the authority to become part of the public transit region and
16 participate in the authority, provided that the petition is
17 approved by resolution of the governing body of the petitioning
18 county.

19 (2) A petitioning county shall be added to the public transit
20 region and the authority if all of the following conditions are
21 satisfied:

22 (a) The petitioning county is adjacent to a county that is, at
23 the time of the petition, included in the public transit region.

24 (b) The addition of the petitioning county is approved by the
25 board.

26 (c) If the authority is levying a tax as provided under
27 section 9(2), the petitioning county shall be a provisional member

1 without voting power and without public transit service from the
2 authority until the tax is approved by a majority of electors of
3 the petitioning county at the first primary or general election to
4 occur at least 71 days after the appointment under section 5(6).
5 The approval of the tax by the electors of a county added under
6 this section shall be determined only by calculation of a majority
7 within the county, and shall be separate and distinct from the
8 calculation of a majority of electors voting on the tax under
9 section 10(2).

10 Sec. 5. (1) An authority created under this act shall be
11 directed and governed by a board of directors consisting of the
12 governor's representative and 1 member representing each transit
13 district. The governor's representative shall only serve on the
14 board if necessary to establish or preserve an odd number of board
15 members.

16 (2) Except as otherwise provided in this act, board members
17 shall serve for a period of 4 years. If a vacancy on the board
18 occurs, the vacancy shall be filled in the same manner as the
19 initial appointment for the remainder of the term.

20 (3) Each board member, other than the governor's
21 representative, shall be appointed by the chief executive officer
22 of the transit district that member will represent.

23 (4) An appointment under this section shall become effective
24 upon the filing of the appointment with the secretary of state and
25 the clerk of the county in which the transit district is located.
26 The appointment of the governor's representative shall become
27 effective upon the filing of the appointment with the secretary of

1 state.

2 (5) Initial appointments shall be made within 60 days of the
3 effective date of this act.

4 (6) If a county is added to a public transit region as
5 provided in section 4, the board member representing the transit
6 district consisting of the county shall be appointed as provided
7 under subsection (3) within 30 days of the conditions of section
8 4(2)(a) and (b) having been satisfied, and at least 71 days prior
9 to the election described in section 4(2)(c). If a tax levied under
10 section 10(2) is not approved as provided in section 4(2)(c), the
11 appointment of the board member provided in this subsection shall
12 be void.

13 (7) No board member, other than the governor's representative,
14 shall be an elected officer of any local government or of this
15 state.

16 (8) Each board member shall be a resident and registered
17 elector of the transit district that board member represents.

18 (9) Upon appointment to the board under this section, and upon
19 taking and filing of the oath of office required under section 1 of
20 article XI of the state constitution of 1963, a board member shall
21 enter office and exercise the duties of the office of board member.

22 (10) Board members shall serve without compensation but may be
23 reimbursed for actual and necessary expenses incurred while
24 attending board meetings or performing other authorized official
25 business of the authority.

26 (11) An individual who is not of good moral character or who
27 has been indicted or charged with, convicted of, pled guilty or no

1 contest to, or forfeited bail concerning a felony under the laws of
2 this state, any other state, or the United States shall not be
3 appointed or remain as a member of the board.

4 (12) Board members appointed under this section shall possess
5 business, financial, or professional experience relevant to the
6 operation of public transit systems.

7 Sec. 6. (1) Within not more than 30 days following the
8 appointment of the members of the board, the board shall hold its
9 first meeting at a date and time determined by the governor's
10 representative. The board members shall elect from among the board
11 members an individual to serve as chairperson of the board and may
12 elect other officers as the board considers necessary. All officers
13 shall be elected annually by the board.

14 (2) The business of the board shall be conducted at a public
15 meeting of the board held in compliance with the open meetings act,
16 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date,
17 and place of the meeting shall be given in the manner required by
18 the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A board
19 shall adopt bylaws consistent with the open meetings act, 1976 PA
20 267, MCL 15.261 to 15.275, governing its procedures and the holding
21 of meetings. After organization, a board shall adopt a schedule of
22 regular meetings and adopt a regular meeting date, place, and time.
23 The board shall meet not less than quarterly. A special meeting of
24 the board may be called by the chairperson of the board or as
25 provided in bylaws adopted by the board.

26 (3) All actions of the board under this act shall be by simple
27 majority vote of all serving members of the board; provided that

1 the board may in its bylaws provide that certain action shall
2 require the approval of a supermajority not to exceed 4/5 of
3 serving members.

4 (4) A board shall keep a written or printed record of each
5 meeting, which record and any other document or record prepared,
6 owned, used, in the possession of, or retained by the authority in
7 the performance of an official function shall be made available to
8 the public in compliance with the freedom of information act, 1976
9 PA 442, MCL 15.231 to 15.246.

10 (5) A board shall provide for a system of accounts for the
11 authority to conform to a uniform system required by law and for
12 the auditing of the accounts of an authority. The board shall
13 obtain an annual audit of the authority by an independent certified
14 public accountant and report on the audit and auditing procedures
15 in the manner provided by sections 6 to 13 of the uniform budgeting
16 and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit
17 also shall be in accordance with generally accepted government
18 auditing standards and shall satisfy federal regulations relating
19 to federal grant compliance audit requirements.

20 (6) The board shall adopt a budget for the fiscal year in
21 accordance with the uniform budget and accounting act, 1968 PA 2,
22 MCL 141.421 to 141.440a.

23 (7) A board shall provide for the purchase of, the contracting
24 for, and the providing of supplies, materials, services, insurance,
25 utilities, third-party financing, equipment, printing, and all
26 other items as needed by the authority to efficiently and
27 effectively meet the needs of the authority using competitive

1 procurement methods to secure the best value for the authority. The
2 board shall make all discretionary decisions concerning the
3 solicitation, award, amendment, cancellation, and appeal of
4 authority contracts. The board shall adopt a procurement policy
5 consistent with the requirements of this act and federal and state
6 laws relating to procurement.

7 (8) An authority shall establish contracting policies and
8 procedures providing for all of the following:

9 (a) Except for the negotiated construction contracts permitted
10 under this subdivision, a contract shall not be awarded by an
11 authority or an authorized officer of the authority for the
12 construction, repair, remodeling, or demolition of any part of a
13 public transit system unless the contract is let pursuant to a
14 procedure that requires competitive bidding. A negotiated
15 construction contract shall not be required to be let by
16 competitive bidding if the board or an authorized officer of the
17 authority with delegated authority to enter into contracts
18 determines that any of the following apply:

19 (i) The negotiated contract amount is less than \$50,000.00.
20 However, if the contract amount, including change orders,
21 subsequently exceeds \$50,000.00, the authority shall detail, in
22 writing, the reasons why the contract amount exceeded \$50,000.00.

23 (ii) As determined in writing by the board or an authorized
24 officer with delegated authority to enter into contracts, the
25 contract is for emergency repair or construction necessitated by a
26 sudden, unforeseen occurrence or situation of a serious and urgent
27 nature and is not for convenience or expediency.

1 (iii) As determined in writing by the board or an authorized
2 officer with delegated authority to enter into contracts, the
3 repair or construction is necessary to ensure rider safety or
4 otherwise protect life or property.

5 (b) The authority shall establish policies and procedures for
6 hiring professional service contractors.

7 (c) The authority shall utilize competitive bidding for all
8 purchases and all other contracts unless the board, or, if
9 authorized by the board to approve procurements, an authorized
10 officer of the authority, determines and details in writing the
11 reason that competitive solicitation of bids or proposals is not
12 appropriate, that procurement by competitive bids is not
13 practicable to efficiently and effectively meet the authority's
14 needs, or that another procurement method is in the public's best
15 interests.

16 (9) A board may employ personnel as the board considers
17 necessary to assist the board in performing the power, duties, and
18 jurisdictions of the authority, including, but not limited to,
19 employment of a chief executive officer and other senior executive
20 and administrative staff. Individual board members shall not hire
21 or be assigned personal staff.

22 (10) A board shall establish policies to assure that the board
23 and the authority shall not do either of the following:

24 (a) Fail or refuse to hire, recruit, or promote; demote;
25 discharge; or otherwise discriminate against a person with respect
26 to employment, compensation, or a term, condition, or privilege of
27 employment, or a contract with the authority because of religion,

1 race, color, national origin, age, sex, sexual orientation, height,
2 weight, marital status, partisan considerations, or a disability or
3 genetic information that is unrelated to the person's ability to
4 perform the duties of a particular job, position, or contract.

5 (b) Limit, segregate, or classify an employee, a contractor,
6 or applicant for employment or a contract in a way that deprives or
7 tends to deprive the employee, contractor, or applicant of an
8 employment opportunity or otherwise adversely affects the status of
9 an employee, contractor, or applicant because of religion, race,
10 color, national origin, age, sex, sexual orientation, height,
11 weight, marital status, partisan considerations, or a disability or
12 genetic information that is unrelated to the person's ability to
13 perform the duties of a particular job or position.

14 Sec. 7. (1) Except as otherwise provided in this act, an
15 authority may do all things necessary or convenient to implement
16 the purposes, objectives, and provisions of this act and the
17 purposes, objectives, and jurisdictions vested in the authority or
18 the board by this act or other law, including, but not limited to,
19 all of the following:

20 (a) Adopt and use a corporate seal.

21 (b) Adopt, amend, and repeal bylaws for the regulation of its
22 affairs and the conduct of its business.

23 (c) Sue and be sued in its own name and plead and be
24 impleaded.

25 (d) Borrow money and issue bonds and notes according to the
26 provisions of this act.

27 (e) Make and enter into contracts, agreements, or instruments

1 necessary, incidental, or convenient to the performance of its
2 duties and execution of its powers, duties, and jurisdictions under
3 this act with any federal, state, local, or intergovernmental
4 governmental agency or with any other person or entity, public or
5 private, upon terms and conditions acceptable to the authority.

6 (f) Engage in collective negotiation or collective bargaining
7 and enter into agreements with a bargaining representative as
8 provided by 1947 PA 336, MCL 423.201 to 423.217.

9 (g) Solicit, receive, and accept gifts, grants, labor, loans,
10 contributions of money, property, or other things of value, and
11 other aid or payment from any federal, state, local, or
12 intergovernmental agency or from any other person or entity, public
13 or private, upon terms and conditions acceptable to the authority,
14 or participate in any other way in a federal, state, local, or
15 intergovernmental program.

16 (h) Make application for and receive loans, grants,
17 guarantees, or other financial assistance in aid of a public
18 transit system from any state, federal, local, or intergovernmental
19 or agency or from any other source, public or private, including,
20 but not limited to, financial assistance for purposes of
21 developing, planning, constructing, improving, and operating a
22 public transit system.

23 (i) Procure insurance or become a self-funded insurer against
24 loss in connection with the property, assets, or activities of the
25 authority.

26 (j) Indemnify and procure insurance indemnifying board members
27 from personal loss or accountability for liability asserted by a

1 person with regard to bonds or other obligations of the authority,
2 or from any personal liability or accountability by reason of the
3 issuance of the bonds or other obligations or by reason of any
4 other action taken or the failure to act by the authority.

5 (k) Invest money of the authority, at the discretion of the
6 board, in instruments, obligations, securities, or property
7 determined proper by the board and name and use depositories for
8 authority money. Investments shall be made consistent with an
9 investment policy adopted by the board that complies with this act
10 and 1943 PA 20, MCL 129.91 to 129.97a.

11 (l) Contract for goods and services as necessary and as
12 provided under this act.

13 (m) Employ legal and technical experts, other officers,
14 agents, employees, or other personnel, permanent or temporary, as
15 considered necessary by the board as provided under this act.

16 (n) Contract for the services of persons or entities for
17 rendering professional or technical assistance, including, but not
18 limited to, consultants, managers, legal counsel, engineers,
19 accountants, and auditors, as provided under this act.

20 (o) Establish and maintain an office.

21 (p) Acquire by gift, devise, transfer, exchange, purchase,
22 lease, or otherwise on terms and conditions and in a manner the
23 authority considers proper property or rights or interests in
24 property. Property or rights or interests in property acquired by
25 an authority may be by purchase contract, lease purchase,
26 agreement, installment sales contract, land contract, or otherwise.
27 The acquisition of any property by an authority for a public

1 transit system in furtherance of the purposes of the authority is
2 for a public use, and the exercise of any other powers granted to
3 the authority is declared to be a public, governmental, and
4 municipal function, purpose, and use exercised for a public purpose
5 and matters of public necessity.

6 (q) Hold, clear, remediate, improve, maintain, manage,
7 protect, control, sell, exchange, lease, or grant easements and
8 licenses on property or rights or interests in property that the
9 authority acquires, holds, or controls.

10 (r) Convey, sell, transfer, exchange, lease, or otherwise
11 dispose of property or rights or interest in property to any person
12 or entity on terms and conditions, and in a manner and for
13 consideration the authority considers proper, fair, and valuable.

14 (s) Adopt reasonable rules and regulations for the orderly,
15 safe, efficient, and sanitary operation and use of a public transit
16 system owned by the authority.

17 (t) Do all other acts and things necessary or convenient to
18 exercise the powers, duties, and jurisdictions of the authority
19 under this act or other laws that related to the purposes, powers,
20 duties, and jurisdictions of the authority.

21 (2) An authority shall adopt public transit plans for its
22 public transit region, and shall adopt any regional transit plan
23 approved by an entity that, before September 15, 2010, was
24 authorized to engage in transit planning in the public transit
25 region under the metropolitan transportation authorities act of
26 1967, 1967 PA 204, MCL 124.401 to 124.426. The authority shall
27 update such plan annually. The authority shall coordinate service

1 overlap, rates, routing, scheduling, and like functions between
2 operators of public transit. The authority may employ operating
3 personnel, negotiate collective bargaining agreements with
4 operating personnel, or own operating assets of a public transit
5 service within the public transit region. The authority shall
6 coordinate the operating and capital transit plans of transit
7 agencies within the public transit region.

8 (3) The authority may charge fares and enter into contracts
9 for the service provided by the public transit system as necessary
10 to provide funds to meet the obligations of the authority.

11 Sec. 8. Ninety days after the effective date of this act, an
12 authority shall become the "designated recipient" for its public
13 transit region for purposes of the former federal urban mass
14 transportation act of 1964, Public Law 88-365, and the regulations
15 promulgated under that act, to apply for federal and state
16 transportation operating and capital assistance grants; if there is
17 a designated recipient in place for the public transit region on
18 the effective date of this act.

19 Sec. 9. (1) The authority may acquire property for a public
20 transit system by purchase, construction, lease, gift, or devise,
21 either within or without the area served by the public transit
22 system and may hold, manage, control, sell, exchange, or lease the
23 property. The authority may utilize any appropriate statute for the
24 purpose of condemnation. Such condemnation proceedings shall only
25 be applicable to property located within the public transit region.

26 (2) Except as otherwise provided in this subsection, the
27 property of the authority created under this act and its income,

1 activities, and operations are exempt from all taxes and special
2 assessments of this state or a political subdivision of this state.
3 Property of an authority and its income, activities, and operations
4 that are leased to private persons are not exempt from any tax or
5 special assessment of this state or a political subdivision of this
6 state. Property of an authority is exempt from any ad valorem
7 property taxes levied under the general property tax act, 1893 PA
8 206, MCL 211.1 to 211.155, or other law of this state authorizing
9 the taxation of real or personal property. An authority is an
10 entity of government for purposes of section 4a(1)(a) of the
11 general sales tax act, 1933 PA 167, MCL 205.54a, and section
12 4(1)(h) of the use tax act, 1937 PA 94, MCL 205.94.

13 (3) The property of an authority created under this act is
14 public property devoted to an essential public and governmental
15 purpose. Income of the authority is for a public and governmental
16 purpose.

17 (4) If an authority seeks to enter into an agreement or
18 arrangement for the whole or partial transfer of operational
19 jurisdiction, management, control, ownership, or other interest in
20 or relating to a public transit system owned or operated by a
21 qualified city, the chief executive officer of the qualified city
22 may enter into and execute the agreement or arrangement and any
23 necessary instruments or documents relating to the transfer
24 notwithstanding any provisions to the contrary or any limitations,
25 requirements, or processes set forth by law, ordinance, or charter,
26 including, but not limited to, any requirement in law, ordinance,
27 or charter that a vote of the electors of the qualified city is

1 required.

2 Sec. 10. (1) An authority may raise revenues to fund all of
3 its activities, operations, and investments consistent with its
4 purposes. The sources of revenue available to the authority may
5 include, but are not limited to, any of the following:

6 (a) Fees, fares, rents, or other charges for use of a public
7 transit system which the authority may fix, regulate, and collect.

8 (b) Federal, state, or local government grants, loans,
9 appropriations, payments, or contributions.

10 (c) The proceeds from the sale, exchange, mortgage, lease, or
11 other disposition of property that the authority has acquired.

12 (d) Grants, loans, appropriations, payments, proceeds from
13 repayments of loans made by the authority, or contributions from
14 public or private sources.

15 (e) The proceeds of a tax levied pursuant to subsection (2).

16 (f) Investment earnings on the revenues described in
17 subdivisions (a) to (e).

18 (2) An authority may levy taxes within the public transit
19 region only as approved by the board and by an aggregate majority
20 of electors of the entire public transit region voting on the
21 authorization of taxes, subject to both of the following:

22 (a) In any tax year, an amount equal to not less than 100% of
23 the revenues generated in a county by any tax levied pursuant to
24 this subsection shall be applied to the cost of services rendered
25 by the public transit system in that county.

26 (b) No tax levied pursuant to this subsection shall be subject
27 to capture by any entity with the power to capture tax increment

1 revenues, including, but not limited to, local development finance
2 authorities, downtown development authorities, tax increment
3 finance authorities, and brownfield redevelopment authorities.

4 Sec. 11. (1) For the purpose of acquiring, improving,
5 enlarging, or extending a public transit system, the authority may
6 issue self-liquidating revenue bonds under the revenue bond act of
7 1933, 1933 PA 94, MCL 141.101 to 141.140, or any other act
8 providing for the issuance of self-liquidating revenue bonds. The
9 bonds shall not be a general obligation of the authority, but shall
10 be payable solely from the revenue of the public transit system.
11 However, if the authority issues self-liquidating revenue bonds
12 with a pledge of the full faith and credit of the authority, those
13 revenue bonds are subject to the revised municipal finance act,
14 2001 PA 34, MCL 141.2101 to 141.2821.

15 (2) The authority may borrow money and issue municipal
16 securities in accordance with and exercise all of the powers
17 conferred upon municipalities by the revised municipal finance act,
18 2001 PA 34, MCL 141.2101 to 141.2821.

19 (3) The authority may issue a bond or municipal security that
20 bears no interest and appreciates as to principal amount. The bonds
21 or municipal securities authorized by this subsection shall be
22 exempt from section 305(2) and (3) of the revised municipal finance
23 act, 2001 PA 34, MCL 141.2305.

24 (4) All bonds, notes, or other evidences of indebtedness
25 issued by an authority under this act, and the interest on the
26 bonds or other evidences of indebtedness, are free and exempt from
27 all taxation within this state, except for transfer and franchise

1 taxes.

2 (5) The issuance of bonds, notes, or other evidences of
3 indebtedness by an authority shall require approval of the board.

4 (6) For the purpose of more effectively managing its debt
5 service, an authority may enter into an interest rate exchange or
6 swap, hedge, or similar agreement or agreements in connection with
7 the issuance or proposed issuance of bonds, notes, or other
8 evidences of indebtedness or in connection with its then
9 outstanding bonds, notes, or other evidences of indebtedness.

10 (7) In connection with entering into an interest rate exchange
11 or swap, hedge, or similar agreement, the authority may create a
12 reserve fund for the payment thereof.

13 (8) An agreement entered into under this section shall be
14 payable from general funds of the authority or, subject to any
15 existing contracts, from any available money or revenue sources,
16 including revenues specified by the agreement, securing the bonds,
17 notes, or evidences of indebtedness in connection with which the
18 agreement is entered into.

19 Sec. 12. (1) The revenues raised by an authority may be
20 pledged, in whole or in part, for the repayment of bonded
21 indebtedness and other expenditures issued or incurred by the
22 authority.

23 (2) A financial obligation of an authority is a financial
24 obligation of the authority only and not a financial obligation of
25 and shall not be transferred to this state or any city or county
26 within a public transit region.