

# Legislative Analysis

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## **NEW TRANSIT SERVICES PROGRAM: AMENDMENT TO PA 51 OF 1951**

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**House Bill 4966**  
**Sponsor: Rep. Marie Donigan**  
**Committee: Transportation**

**Complete to 11-18-09**

## **A SUMMARY OF HOUSE BILL 4966 AS INTRODUCED 5-19-09**

The Comprehensive Transportation Fund (CTF) is a state-restricted fund established under Section 10b of 1951 PA 51 for public transportation purposes. Approximately two-thirds of CTF revenue comes from the Michigan Transportation Fund, AND approximately one-third from an earmark of auto-related sales tax. Section 10e of Act 51 establishes the priority order for the appropriation of CTF revenue. House Bill 4966 would amend Section 10e to provide for a new CTF appropriation of up to \$50.0 million for a "New Transit Services Program."

The new grant program would be established in Section 10e(4)(c) – after the appropriation of CTF revenue for bond payments, administration, local bus operating assistance, intercity passenger/freight, specialized services, and local bus capital. The new program would replace the current appropriation for "local bus new service" and the bill would strike the current program requirements of the "local bus new service" program in Subsection 15 and replace with new language specific to the "New Transit Service Program."

### **Funding and Distribution**

The bill provides for the annual appropriation of up to \$50.0 million from the CTF for the New Transit Services Program, and directs that program funds be expended or distributed for projects as determined annually by the Michigan Department of Transportation subject to the following:

- Requires that projects provide new transit service in, to, or between urban areas in this state and shall serve major concentrations of trip origins and destinations.
- Permits grant funding under subsection (4)(c)(iii) for direct expenditures, loans, grants, or guarantees of payments under leases or contracts with public and private corporations, eligible agencies, eligible authorities, or other transportation providers.
- Permits grant funding under subsection (4)(c)(iii) for eligible operating and capital expenses.

- Permits grant funding under subsection (4)(c)(iii) for up to 100% of project cost or for matching of federal aid or grants under any federal program.

The bill requires the department to annually "determine all expenditures and distributions for new transit services" under this subsection. The bill permits the department to "prepare a list of all eligible requests for funds under this subsection ranked in order of priority."

The bill requires that new transit services funded under the program meet all of the requirements of Section 10.

### **Definitions**

"Eligible operating or capital expenses" means those expenses as determined by the department. State, local, or federal aid; fares; grants; and other revenue are to be deducted from eligible operating and capital expenses.

"Michigan urban areas" means urbanized areas as designated by the United States office of management and budget following the most recent United States census.

"New transit service" means service that starts after this bill takes effect.

"Transit service" means express bus, commuter bus, bus rapid transit, light-rail transit, street railway, commuter rail service, and new feeder bus service in support of new transit services, or other service as determined by the department.

### **FISCAL IMPACT:**

#### **CTF Revenue Sources**

The CTF receives an earmark of Michigan Transportation Fund revenue, as provided in Act 51, and from an earmark of a portion of sales tax on auto-related products under the Sales Tax Act. Total CTF revenue is estimated to be \$255 million in FY 2009-10. The largest appropriation of CTF revenue is for local bus operating assistance, \$166.6 million in FY 2009-10.

House Bill 4966 would amend Section 10e to provide for a new CTF appropriation of up to \$50.0 million for a "New Transit Services Program."

The appropriation of CTF revenue for the new program would come from either a reduction in appropriations for current CTF-funded programs or through additional CTF revenue, although no source of additional revenue has been identified in the bill. We note that current CTF revenue is not sufficient to support existing Act 51 mandates: Section 10e (4)(c)(ii) currently requires an appropriation of not less than \$8.0 million from the CTF for bus capital, as either matching funds for federal aid or for 100% state-funded capital projects. The bus capital appropriation in the FY 2009-10 budget was only \$5.2 million due to declining CTF revenue.

The bill establishes additional program responsibilities on the Michigan Department of Transportation. It is not clear how much the additional responsibilities would cost or whether they could be accomplished at current funding levels.

**Note on Section 10e:**

Subsections (6) through (12) of Section 10e currently define a process for the development by local public transportation agencies and intercity providers of "local public transportation programs," and the development by the department of its "transportation program." Section 9 requires the department to submit the transportation program to the State Transportation Commission by April 1 of each year. Even though Section 10e deals with the appropriation of funds from the CTF, Subsection 9 also indicates that the submission to the State Transportation Commission would include "the programs for the expenditure of the *State Trunkline Fund* as they may have been supplemented, amended or modified since their original filing." Subsection 10 requires specific State Transportation Commission approval, by May 1 of each year, of the department's proposed "transportation program."

These requirements appear to be incongruous and anachronistic. They do not appear to conform to the federal planning requirements or to the department's current process of developing a rolling Five-Year Plan required by appropriation boilerplate. In addition, the State Transportation Commission does not appear to have constitutional authority to approve or disapprove specific department projects or programs.

In a September 2003 audit of the Bureau of Planning (OAG 59-150-01), the Office of Auditor General recommended that the department request that the Legislature amend PA 51 of 1951 to make state planning and reporting requirements consistent with federal requirements. This recommendation had been made in a prior OAG audit.

The requirements of Section 10h of Act 51 are similarly inconsistent with current department practice and other state and federal requirements. Section 10h requires that the State Transportation Commission report by May 1 of each year to the Legislature, the Governor, and the Auditor General on its recommendations act for the transportation program approved under Section 10e (10).

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.