



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 445 (as enacted)
Senate Bills 909, 911, 912, and 967 (as enacted)
Sponsor: Senator Rebekah Warren (S.B. 445)
Senator Tom Casperson (S.B. 909)
Senator Bert Johnson (S.B. 911 & 912)
Senator Virgil Smith (S.B. 967)
Senate Committee: Transportation
House Committee: Transportation

PUBLIC ACT 391 of 2012
PUBLIC ACTS 387-390 of 2012

Date Completed: 4-25-14

CONTENT

Senate Bill 909 enacted the "Regional Transit Authority Act" to create a Regional Transit Authority (RTA) for the establishment of a public transit system within a qualified region (Macomb, Oakland, Washtenaw, and Wayne Counties). The Act does the following:

- Provides for the appointment of a board to direct and govern the RTA.
- Requires the RTA to adopt a public transit plan for the region, and update it annually.
- Authorizes the RTA to acquire a public transportation provider with the unanimous approval of the board.
- Prohibits the RTA from assuming liability for or paying any legacy costs of a public transportation provider without voter approval.
- Allows the RTA to implement a rolling rapid transit system within the public transit region.
- Allows the RTA, with voter approval, to levy an assessment and/or collect a motor vehicle registration tax; and requires a supermajority vote of the board to place either question on the ballot.
- Allows the RTA to issue self-liquidating revenue bonds.
- Provides that the RTA is the public transit region's designated recipient for the purpose of applying for Federal transit funds; and requires RTA approval of an application for assistance submitted by a public transportation provider in the region.
- Gives the RTA the sole authority for the public transit region to apply to the Michigan Department of Transportation (MDOT) for an operating grant; and requires the RTA to submit a single consolidated application for the region and allocate funding to public transportation providers.
- Requires each public transportation provider in the region to submit to the RTA an annual report regarding the coordination of service.
- Allows the RTA to issue coordination directives regarding public transportation services, and to withhold a portion of State assistance from a public transportation facility owner or operator that fails to comply with a directive.
- Allows the RTA to acquire property for a public transportation system by various mechanisms, including condemnation.
- Requires the RTA to enter into an operating license agreement with a local road agency or MDOT before acquiring, constructing, or operating a public transportation system.

- Requires the board to create a citizens' advisory committee and a public transportation provider advisory council, which may make recommendations to the board.
- Exempts RTA property from taxation.
- Provides that local zoning and land use ordinances do not apply to an RTA transportation system.
- Allows a county that is not included in the public transit region to petition the RTA to become part of the region and the Authority.

The Act also appropriated \$250,000 from the Comprehensive Transportation Fund to the RTA to begin implementing Act.

Senate Bill 911 amended the Michigan Vehicle Code to authorize the RTA to charge a fee in addition to the regular vehicle registration tax for comprehensive transportation purposes, if approved by electors in the public transit region.

Senate Bill 912 amended the Michigan Zoning Enabling Act to provide that a zoning ordinance is subject to the Regional Transit Authority Act.

Senate Bill 967 amended Public Act 51 of 1951, the Michigan Transportation Fund (MTF) law, to authorize MDOT or a local road agency to enter into an operating license agreement with the Regional Transit Authority to operate a public transportation system, and designate lanes as dedicated public transit lanes.

Senate Bill 445 amended Public Act 51 of 1951 to include the Regional Transit Authority among the authorities eligible to receive distributions from the Comprehensive Transportation Fund.

Senate Bills 909 and 445 took effect on December 19, 2012. Senate Bills 911, 912, and 967 took effect on March 28, 2013.

All of the bills, except Senate Bill 912, are described in detail below.

Senate Bill 909

Establishment of Authority

The Regional Transit Authority Act states, "The intent of this legislation is to create a regional transit system by establishing a regional transit authority." For an area of the State that was a qualified region on the Act's effective date, the Act creates the Regional Transit Authority for a public transit region that includes the qualified region.

The RTA is a municipal public body corporate and a metropolitan authority authorized by Article VII, Section 27 of the State Constitution, and possesses the powers, duties, functions, and responsibilities vested in an authority by the Act. The RTA is not an agency or authority of the State. (Article VII, Section 27 authorizes the Legislature to establish in metropolitan areas additional forms of government or authorities with powers, duties, and jurisdictions as provided by the Legislature.)

The Act defines "qualified region" as a geographic area of the State that includes a qualified county and the three counties with the largest populations according to the most recent decennial census that are contiguous to the qualified county. "Qualified county" means the Michigan county with the largest population according to the most recent census (i.e., Wayne County). (The three other counties that meet the criteria are Macomb, Oakland, and Washtenaw.) For an area that becomes a qualified region after the Act's effective date, an authority is created on the date the area becomes a qualified region for the public transit region that includes the qualified region. "Public transit region" means an area of Michigan consisting of a qualified region. The term also includes a county added to a public transit region by an authority, as described below.

The Act defines "public transportation" as the movement of individuals and goods by publicly owned bus, rapid transit vehicle, or other conveyance that provides general or special service to the public, excluding school buses or charter or sightseeing service or transportation that is used exclusively for school purposes. The term includes the movement of individuals and goods by privately owned bus, railroad car, rapid transit vehicle, or other conveyance that, under a contract with the Authority, provides general or special service to the public. The Act specifies that public transportation is a transportation purpose within the meaning of Article IX, Section 9 of the State Constitution (described below, under **BACKGROUND**).

"Public transportation system" means a system for providing public transportation in the form of light rail, rolling rapid transit (bus services), or other modes of public transportation and public transportation facilities to individuals. "Public transportation facility" means all plants, equipment, work instrumentalities, and real and personal property and rights used or useful for public transportation.

County Petition

A county that is not included in the public transit region and is not a participant in the RTA may petition it to become part of the region and the Authority, subject to approval by resolution of the petitioning county's governing body. A petitioning county must be added to the region and the RTA if the county is adjacent to a county that is, at the time of the petition, included in the public transit region, and the board approves the addition.

If the RTA is levying an assessment and/or a motor vehicle registration tax, a petitioning county that satisfies the conditions for inclusion will be a provisional member of the RTA without voting power or transportation service from the Authority until a majority of the electors of the county approve the assessment and/or registration tax at the first general or special election to occur at least 71 days after appointment of a board member representing that county.

Authority Board

Membership. The RTA must be directed and governed by a board consisting of all of the following:

- One nonvoting representative of the Governor appointed by the Governor.
- Two individuals appointed by the county executive of a county within the public transit region with the second-largest population (Oakland County).
- Two individuals appointed by the county executive of a county within the public transit region with the third-largest population (Macomb County).
- Two individuals appointed by the county executive of a county within the public transit region with the fourth-largest population (Washtenaw County).
- Two individuals appointed by the county executive of the qualified county within the public transit region (Wayne County), including one individual who is a Detroit resident.
- One individual appointed by the mayor of a city within the qualified county with the largest population (Detroit).

If a county is added to the public transit region after the initial appointment of board members, the board must include two individuals appointed by the county executive of that county. These members must be appointed within 30 days after the conditions for adding the county have been satisfied and at least 71 days before an election in that county to approve an assessment or vehicle registration tax. If the assessment and/or tax is not approved, the appointment of the board members will be void.

Board members must be appointed for terms of three years. Of those initially appointed, however, one of the two members appointed by each county executive had to be appointed for an initial term of one year, and the member appointed by the city mayor had to be appointed for an initial term of two years. A board vacancy occurring other than by expiration of a term must be filled in the same manner as the original appointment for the remainder of the unexpired term. A board member may continue to serve until a successor is appointed and qualified.

A board member may not be an employee of the county or city appointing him or her or an employee of a public transportation provider operating in the public transit region. In addition, a board member may not be a currently serving elected officer of the State or a political subdivision of the State.

A board member must be a resident of and registered elector in the county or city from which he or she is appointed, and must have substantial business, financial, or professional experience relevant to the operation of a corporation or public transportation system.

A board member must serve without compensation, but may receive reimbursement for necessary travel and expenses consistent with relevant statutes and the rules and procedures of the Civil Service Commission and the Department of Technology, Management, and Budget, subject to available funding.

An individual who is not of good moral character or who has been convicted of, pleaded guilty or no contest to, or forfeited bail concerning a felony under the laws of Michigan, any other state, or the United States may not be appointed to or remain as a member of the board. A board member must discharge the duties of the position in a nonpartisan manner, in good faith, in the best interests of the State, and with the degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position.

A member may not make or participate in making a decision, or in any way attempt to use his or her position as a board member to influence a decision, on a matter before the RTA in which he or she is directly or indirectly interested. A member may not be interested directly or indirectly in any contract with the Authority or MDOT that would cause a substantial conflict of interest. A member must comply, and the board must adopt policies and procedures that require members to comply, with these requirements and all of the following:

- Public Act 472 of 1978 (the lobbyist registration law) as if the board member were subject to that Act and his or her receipt of a gift or compensation would be in violation of it if given by a lobbyist, a lobbyist agent, or a representative of a lobbyist.
- Public Act 566 of 1978 (which governs incompatible public offices).
- Public Act 318 of 1968 (which governs conflicts of interest for legislators and State officers) as if he or she were a State officer.
- Public Act 317 of 1968 (which governs conflicts of interest for public servants) as if he or she were a public servant.
- Public Act 196 of 1973 (which governs standards of conduct for public officers and employees) as if he or she were a public officer.

No contract entered into by the RTA and no bonds, notes, or other obligations issued by it will be void or voidable except as provided in Public Act 317 or 318 of 1968. A contract or bond, note, or other obligation will not be void or voidable by reason of a board member's failure to comply with the statutes listed above.

The Governor may remove a board member from office for a violation of the provisions regarding good moral character, the discharge of duties, and conflict of interest.

Meetings. The Governor's representative must serve as chairperson of the board. Annually, the board members must elect officers as necessary.

The board must adopt a schedule of regular meetings and meet at least quarterly. A special meeting may be called by the chairperson or as provided in the board's bylaws. The board is subject to the Open Meetings Act.

The board must keep a written or printed record of each meeting. The records and other Authority documents are subject to the Freedom of Information Act.

Voting Requirements; Acquisition of Provider. As a rule, board action must be by simple majority vote of all voting members. The board must provide in its bylaws, however, that the following

actions require the approval of seven-ninths of the voting members, including the affirmative vote of at least one member from each participating county and the member appointed by the mayor of Detroit:

- The placement of a question of the levy of an assessment or approval of a motor vehicle registration tax on the ballot by the RTA.
- The determination of the rate, or amount, of any assessment or motor vehicle registration tax to be requested by the RTA at an election.

The board also must provide in its bylaws that the following actions require the unanimous approval of all voting members:

- A determination to acquire, construct, operate, or maintain any form of rail passenger service within the public transit region.
- A determination to acquire a public transportation provider.
- A determination to place on a ballot the question of acquiring, accepting responsibility for, or obligating itself to assume liability for or to pay any legacy costs of a public transportation provider that the RTA may purchase, assume, merge with, or otherwise acquire.

Unless the RTA secures the affirmative vote of a majority of the electors in each member county in the public transit region, the Authority may not acquire a public transportation provider that does business in that region unless both of the following conditions are satisfied:

- All accrued liabilities, funded and unfunded, of the provider being acquired have been paid or are required to be paid by a person other than the RTA.
- The board unanimously agrees to comply with all requirements for obtaining Federal operating and capital assistance grants under the Moving Ahead for Progress in the 21st Century Act and the regulations promulgated under that Federal law, with respect to the provider being acquired.

The RTA Act defines "public transportation provider" as a public or private entity that provides public transportation services, including a contractor providing services to a public transportation provider. The term also includes an authority or agency existing on or created after the Act's effective date, and an authority formed under any of the following:

- Public Act 55 of 1963 (which governs mass transportation system authorities).
- The Urban Cooperation Act.
- Public Act 8 of 1967 (Ex Sess) (which governs intergovernmental transfers of functions and responsibilities).
- Public Act 35 of 1951 (which governs intergovernmental contracts between municipal corporations).
- The Public Transportation Authority Act.
- The Revenue Bond Act.

Accounting & Audits. The board must provide for a uniform system of accounts for the RTA to conform to and for the auditing of its accounts. The board must obtain an annual audit of the Authority by an independent certified public accountant and report on the audit and auditing procedures under the Uniform Budgeting and Accounting Act. The audit must be in accordance with generally accepted government auditing standards, and must satisfy Federal regulations regarding Federal grant compliance audit requirements. The audit must be filed with the State Treasurer and MDOT.

Operation, Contracting, & Procurement

Budget, Policies, & Procedures. Within 90 days after its first meeting, the board had to adopt and maintain a budget for the fiscal year in accordance with the Uniform Budget and Accounting Act. Additionally, the board had to establish policies and procedures for the purchase of, contracting for, and provision of supplies, materials, services, insurance, utilities, third-party financing, equipment, printing, and all other items needed by the RTA to efficiently and effectively meet its

needs using competitive procurement methods to secure the best value for the Authority. The board must make all discretionary decisions concerning the solicitation, award, amendment, cancelation, and appeal of RTA contracts.

In establishing the policies and procedures, the board must provide for the acquisition of professional services, including architectural, consulting, engineering, surveying, accounting, and legal services, as well as services related to the issuance of bonds, in accordance with a competitive, qualifications-based selection process and procedure for the type of professional service required by the Authority.

Annual Report to Legislature. Beginning one year after the RTA's creation, the board must submit a report to the House of Representatives and Senate Appropriations Committees and Subcommittees on Transportation each year on March 31. The report must include all of the following information from the preceding calendar year:

- The RTA's financial status and operating costs.
- The financial status of public transportation providers within the public transit region.
- The status of any rolling rapid transit system.
- The average daily and annual ridership of a rolling rapid transit system.
- The dashboard developed by the RTA.
- The number and severity of any accidents involving a rolling rapid transit system that occurred.

Website. Within 120 days after its first meeting, the board had to establish a website for the RTA. The Authority must post on the website its budget, policies and procedures, and updates on RTA activities and transactions and the progress of any project, including a proposed rolling rapid transit system, as they become available. The RTA also must post all of the following information on the website:

- An asset management plan, which must be updated annually, for all revenue vehicles and facilities, major facility components, and major pieces of equipment as defined by MDOT.
- The method the RTA uses, updated every three years, to determine the percentage of operating costs that will be funded with local funds and the percentage that will be funded with fares.
- A plan and commitment to conduct a survey of user satisfaction and a survey of general public satisfaction with the RTA's services and performance once every three years.
- A dashboard of the RTA's performance that includes all of the information that must be posted, as well as annual performance indicators established by the board.

The Authority must provide results for the most recent completed surveys to MDOT. The dashboard must be readily available to the public, and the Authority must update it annually.

Cost Plus Construction Contract; Procurement. The board may not enter into a cost plus construction contract unless all of the following apply:

- The contract cost is less than \$50,000.
- The contract is for emergency repair or construction caused by unforeseen circumstances.
- The repair or construction is necessary to protect life or property.
- The contract complies with State and Federal law.

("Cost plus construction contract" means a contract under which the contractor is paid a negotiated amount, regardless of the expenses the contractor incurs.)

Within 90 days after its first meeting, the board had to adopt a procurement policy consistent with the requirements of the RTA Act and Federal and State laws relating to procurement. Preference must be given to firms based in the public transit region and each county within the region, consistent with applicable law.

None of these provisions may be construed as creating a quota or set-aside for any city or county in the public transit region, and no quota or set-aside may be created.

The RTA must issue to the board and each member jurisdiction within the public transit region an annual report detailing all contracts entered into and listing the names and headquarters of all Authority vendors with which the RTA has contracted for services during the previous fiscal year.

Within 90 days after its first meeting, the board also had to adopt a policy to govern the control, supervision, management, and oversight of each contract to which the RTA is a party. In addition, the board had to adopt procedures to monitor the performance of each contract to assure its execution within the prescribed budget and time periods. The chief executive officer (CEO) or other authorized employee of the RTA may not sign or execute a contract until it is approved by the board.

Also, within 90 days after the first meeting, the board had to establish policies to ensure that the RTA does not enter into a procurement or employment contract with a person who has been convicted of a criminal offense related to the application for or performance of a contract or subcontract with a governmental entity in any state.

The board also had to establish policies to ensure that the RTA does not enter into a procurement or employment contract with a person who has been convicted of a criminal offense, or held liable in a civil proceeding, in Michigan or any other state, that negatively reflects on the person's business integrity, based on a finding of embezzlement, theft, forgery, bribery, falsification or destruction of records, receipt of stolen property, violation of state or Federal antitrust statutes, or similar laws.

(For the purposes of these provisions, "person" includes affiliates, subsidiaries, officers, directors, and managerial employees of a business entity, or an individual or entity who, directly or indirectly, holds a pecuniary interest in a business entity of at least 20%.)

Competitive Bidding. The RTA is not required to use competitive bidding when acquiring proprietary services, equipment, or information available from a single source, such as a software license agreement. The Authority may enter into a competitive purchasing agreement with the Federal government, the State of Michigan, or other public entities for the purchase of necessary goods or services. It also may enter into lease purchases or installment purchases for periods not exceeding the useful life of the items purchased unless otherwise prohibited by law. In all Authority purchases, if consistent with applicable Federal and State law, preference must be given first to products manufactured or services offered by firms based in the public transit region, including the cities and counties in the region, and second to firms based in Michigan.

The RTA must actively solicit lists of potential bidders for contracts from each city and each county in the public transit region. Except as otherwise provided, the Authority must use competitive solicitation for all authorized purchases unless one or more of the following apply:

- An emergency directly and immediately affecting service or public health, safety, or welfare requires the immediate procurement of supplies, materials, equipment, or services to mitigate an imminent threat to public health, safety, or welfare, as determined by the Authority or its CEO.
- Procurement of goods or services is for emergency repair or construction caused by unforeseen circumstances when the repair or construction is necessary to protect life or property.
- Procurement of goods or services is in response to a declared state of emergency, energy emergency, or disaster.
- Procurement of goods or services is under a cooperative purchasing agreement with the Federal government, the State, or another public entity for the purchase of necessary goods and services at fair and reasonable prices using a competitive procurement method for RTA operations.

In addition, competitive solicitation is not required if the value of procurement is less than \$25,000. The board must establish policies or procedures to ensure that the goods and services valued at less than \$25,000 are purchased at fair and reasonable prices, including a provision that for purchases and sales of \$25,000 or less but over \$5,000, written price quotations from at least three qualified and responsible vendors must be obtained or a memorandum must be kept on file showing that fewer than three vendors exist in the market area within which it is practicable to obtain quotations.

Notwithstanding any other requirement of the Act, if the RTA applies for and receives State or Federal funds that require it to comply with procurement or contracting requirements that are in conflict with the Act, the State or Federal requirements will take precedence.

Personnel

The board may employ personnel it considers necessary to assist it in performing the Authority's powers, duties, and jurisdictions, including employment of a CEO and other senior executive and administrative staff. The board must hire a CEO and any necessary support staff for the CEO. Individual board members may not hire or be assigned personal staff.

The board must establish policies to ensure that the board and the RTA do not do either of the following:

- Discriminate against an individual with respect to employment, compensation, or a term, condition, or privilege of employment, or a contract with the Authority in a manner that is not in compliance with State or Federal law.
- Limit, segregate, or classify an employee, contractor, or applicant for employment or a contract in a way that deprives or tends to deprive the person of an employment opportunity or otherwise adversely affects the person's status in a manner that is not in compliance with State or Federal law.

Advisory Committee

The board must create a citizens' advisory committee that consists of public transit region residents. Public transportation users must make up 40% of the committee, as follows:

- At least 25% who are senior citizens or people with disabilities.
- Two users from Detroit.
- Two users each from Macomb, Oakland, Washtenaw, and Wayne Counties.
- Two users from each additional county participating in the Authority.

Individuals from organizations representing senior citizens and people with disabilities must make up 20% of the committee. Individuals representing business, labor, community, and faith-based organizations must make up 40%.

The committee may meet at least once every quarter and may make reports to the board, including recommendations, at each board meeting. In addition, the committee may do all of the following:

- Review and comment on the comprehensive regional transit service plan for the public transit region and all annual updates.
- Advise the board regarding the coordination of functions between different owners and operators of public transportation facilities within the public transit region.
- Review and comment on the specialized services coordination plan required by Public Act 51 of 1951.
- Upon the board's request, provide recommendations on other matters concerning public transportation in the public transit region.

(Under Public Act 51, "specialized services" means public transportation designed primarily for people with disabilities or those who are at least 65 years old.)

Advisory Council

The board must create a public transportation provider advisory council consisting of two members appointed by each public transportation provider in the public transit region. The council may make reports to the board, including recommendations, at each board meeting. The council may make recommendations only on issues of service coordination, funding, plans, specialized services, and other matters as requested by the board.

Authority Powers

Except as otherwise provided, the RTA may do all things necessary and convenient to implement the purposes, objectives, and provisions of the Act and the purposes, objectives, and powers vested in the Authority or the board by the Act or other law, including all of the following:

- Borrowing money and issuing bonds and notes.
- Applying for and receiving loans, grants, or other financial assistance in aid of a public transportation system.
- Engaging in collective negotiation or collective bargaining.
- Promulgating rules and adopting regulations for the orderly, safe, efficient, and sanitary operation and use of a public transportation system owned by the Authority.
- Subject to the Act, using the State's rights-of-way throughout the public transit region for public transportation.
- Creating separate operating entities.
- Acquiring and disposing of property or rights and interests in property.
- Holding, clearing, remediating, improving, maintaining, selling, exchanging, leasing, or granting easements and licenses on property or rights or interests in Authority property.
- Charging fares and entering into contracts for the services provided by the public transportation system as necessary to provide funds to meet the Authority's obligations.
- Acquiring a public transportation provider as prescribed in the Act.

Notwithstanding any other provision of the Act, the RTA may not acquire, accept responsibility for, or obligate itself to assume liability for, or pay any legacy costs of a public transportation provider that the Authority purchases, merges with, assumes, or otherwise acquires, without first securing an affirmative vote of a majority of the electors of each member county in the public transit region.

Public Transit Plan

The RTA must adopt a public transit plan for its public transit region. As its initial plan, the Authority must adopt the most recent public transit plan of any public transportation provider within the public transit region that is a designated recipient of Federal funds. The RTA must integrate all of these plans into a single regional master transit plan for the entire region. The Authority may amend the plan as necessary and must update it annually.

The RTA may establish and operate new or additional routes and public transportation facilities using various forms of transportation modalities. It may employ operating personnel, negotiate collective bargaining agreements with operating personnel, or own operating assets of a public transportation service within the public transit region. The RTA must coordinate the operating and capital transit plans of transportation agencies and authorities within the region.

Rolling Rapid Transit System

Subject to available resources, the RTA may plan, design, develop, construct, and operate a rolling rapid transit system on at least one corridor within the public transit region. With the approval of the Federal Transit Administration (FTA) and in compliance with all applicable Federal and State regulations, the RTA must determine exact routes and station locations. It may design routes to augment, complement, enhance, replace, or improve other forms of public transportation operating within or on the corridors.

Additionally, if the authority created on the Act's effective date includes Macomb, Oakland, or Wayne County, the RTA may plan, design, develop, construct, and operate a rolling rapid transit system on at least four corridors within its public transit region. Initial plans for a rolling rapid transit system may include all of the following:

- A Woodward corridor line to operate along, on, or near Woodward Avenue between a location in or near the downtown Detroit station (a location in or near the Campus Martius area) and a location in downtown Pontiac.
- A Gratiot corridor line to operate along, on, or near Gratiot Avenue between the downtown Detroit station and a location in downtown Mt. Clemens.
- A northern cross-county line to operate between Pontiac and Mt. Clemens, including stations along Big Beaver Road in Troy and M-59 in portions of Oakland and Macomb Counties.
- A western cross-county line to operate between the downtown Detroit station and the Ann Arbor Blake Transit Center, including stations in Ypsilanti, Detroit Wayne County Metropolitan Airport, and Dearborn.

("Rolling rapid transit" means bus services that may combine the technology of intelligent transportation systems, traffic signal priority, cleaner and quieter vehicles, rapid and convenient fare collection, and integration with land use policy. The term may include exclusive rights-of-way, rapid boarding and alighting, and integration with other modes of transportation.)

Authority expenses incurred in the planning and operation of a rolling rapid transit system are not eligible for an operating grant under Section 10e of Public Act 51 of 1951. (That section provides for distributions from the Comprehensive Transportation Fund, including grants to cover a portion of the operating costs of an eligible authority or governmental agency that provides public transportation services in urbanized areas. Also, under Senate Bill 445, Section 10e requires the RTA to apply for funds for each eligible authority and eligible governmental agency within the public transit region.)

Grants

The following provisions pertaining to grants began on October 1, 2013.

The RTA is the designated recipient for its public transit region for purposes of applying for Federal operating and capital assistance grants under the Moving Ahead for Progress in the 21st Century Act and the regulations promulgated under it. As the designated recipient, the RTA has specified powers and responsibilities, including applying for and receiving Federal transit funds for the public transit region on behalf of the Authority or one or more public transportation providers in the region. The RTA's powers and responsibilities also include reviewing an application for planning, operating, or capital assistance for a program under the Federal Transit Act before a public transportation provider in the public transit region submits the application.

Additionally, the RTA may approve, disapprove, or request modifications to an application after a public transportation provider submits it to the Authority.

A public transportation provider in the public transit region may not submit an application to a Federal agency for operating and capital assistance grants under the Moving Ahead for Progress in the 21st Century Act and the regulations promulgated under it unless the board has approved the application. If a provider submits an application that has not been approved by the board, the provider is not eligible to receive matching funds under Section 10e of Public Act 51 for any projects included in the application.

To the extent required by the Moving Ahead for Progress in the 21st Century Act and the regulations promulgated under it, the RTA may execute a supplemental agreement conferring on a public transportation provider in a public transit region the right to receive and dispense Federal grant funds for applications that the board has approved.

The RTA has the sole authority to submit an application to MDOT for the public transit region for programs provided for in Section 10e of Public Act 51.

The RTA must require all public transportation providers in the public transit region to submit an annual funding request directly to the Authority for each program for which the provider is eligible under Section 10e of Public Act 51. The RTA must evaluate all requests and prepare and submit to MDOT a single consolidated application for the public transit region for each State program. The application must include the proposed dollar amount to be allocated to each public transportation provider for each program. In preparing the consolidated application and determining the proposed allocation to each provider, the board must consider how the allocations will contribute to each of the following:

- The ability of each provider to maintain current services and infrastructure.
- The effectiveness and efficiency of public transportation service throughout the public transit region.
- Achieving and maintaining the region's transit infrastructure in a state of good repair.
- The matching Federal aid for Federal applications approved by the board.
- The coordination of public transportation services among providers in the region.
- Strategic investment in a regional rolling rapid transit system.
- Other factors determined appropriate by the board and included in written board policies or procedures.

A public transportation provider must submit its annual funding request to the RTA in accordance with written procedures adopted by the board and at least 60 days before the application deadline established by MDOT. The board may withhold payment on current-year distributions to a provider that fails to submit a complete annual funding request within the 60-day time frame.

If MDOT awards less funding than the total requested by the RTA for a program, the board must adjust the allocation to each provider proportionately. Except as described below, for the programs provided for in Section 10e of Public Act 51, MDOT may award funds only to the Authority. The RTA is responsible for distributing the funds to public transportation providers within the public transit region based on the application approved by MDOT. The RTA also is responsible for monitoring and oversight of the use of the funds by each provider. Upon receiving funds from MDOT, the RTA must distribute them to each provider in a timely matter.

For the programs provided for in Section 10e of Public Act 51, if MDOT approves funding to match a Federal award, the Department may, with the RTA's concurrence, award the funds directly to the public transportation provider that is the Federal award recipient.

Service Coordination

To be eligible for a distribution of funds from the RTA for programs under Section 10e of Public Act 51, a public transportation provider must annually submit a report that describes and evaluates the provider's efforts to coordinate service with other providers in the public transit region. The report must describe the provider's successful and unsuccessful efforts to do all of the following:

- Coordinate routes, schedules, fares, and points of transfer.
- Provide information or services to riders that help facilitate transfers from one public transportation provider to another.
- Eliminate or reduce service overlap and duplication.

The RTA must coordinate service overlap, rates, routing, scheduling, and any other function that it considers necessary to implement or execute the comprehensive regional transit service plan between authorities, agencies, and owners or operators of public transportation facilities within the public transit region. The RTA may issue coordination directives regarding public transportation services, including routes, schedules, and fares, and must give notice of coordination directives to owners and operators of public transportation facilities in the region. The RTA may withhold up to 5% of the allocation of State funding under Public Act 51 from a provider that fails to comply with a coordination directive.

To the extent that a city, village, or township provision or procedure is in conflict with a coordination directive, the directive will preempt the local provision or procedure.

Authority Property

The RTA may acquire property for a public transportation system by purchase, construction, lease, gift, or devise, either within or outside of the area served by the system, and may hold, manage, control, sell, exchange, or lease property. The RTA must comply with Michigan law for the purpose of condemnation proceedings, and may use condemnation proceedings only to acquire property located within its public transit region.

The RTA's property, income, activities, and operations are exempt from all taxes and special assessments of the State or a political subdivision of the State. Authority property and income, activities, and operations that are leased to private people, however, are not exempt from any tax or special assessment.

Authority Revenue

The RTA may raise revenue to fund all of its activities, operations, and investments consistent with its purposes. The revenue sources available to the Authority include all of the following:

- Fees, fares, rents, or other charges for use of a public transportation system.
- Federal, State, or local government grants, loans, appropriations, payments, or contributions.
- Proceeds from the sale, exchange, mortgage, lease, or other disposition of property acquired by the Authority.
- Grants, loans, appropriations, payments, proceeds from repayments of loans made by the Authority, or contributions from public or private sources.
- The proceeds of an assessment levied or a motor vehicle registration tax collected under the Act.
- Investment earnings.

The Authority may levy an assessment within the public transit region only as approved by the board and the electors of the region voting on the assessment at a general election held on the regular November election date as provided in the Michigan Election Law. An assessment approved by the board and a majority of the electors must be collected and enforced in the same manner as taxes are collected and enforced under the General Property Tax Act. A ballot proposal submitted on the question must state all of the following:

- The assessment rate to be authorized.
- The duration of the assessment.
- A clear statement of the assessment's purpose.
- A clear statement indicating whether the proposed assessment is a renewal of a previously authorized assessment, or the authorization of a new one.

The RTA also may collect a motor vehicle registration tax dedicated to the purpose of public transportation, if authorized under the Michigan Vehicle Code.

The RTA must ensure that at least 85% of the money raised in each member jurisdiction through an assessment or a vehicle registration tax, or both, is spent on public transportation service routes located in that jurisdiction.

Starting in the 2014-15 fiscal year, the Authority must submit to MDOT an asset management plan for all revenue vehicles and facilities, major facility components, and major pieces of equipment. The RTA must update the plan annually.

After the first 12 months of operation of a rolling rapid transit system, and annually after that, the RTA must give to the legislative body of each member jurisdiction a report showing the cost of service and revenue generated in each jurisdiction.

Authority Bonds & Notes

For the purpose of acquiring, improving, enlarging, or extending a public transportation system, the RTA may issue self-liquidating revenue bonds under the Revenue Bond Act or any other act providing for the issuance of such bonds. The bonds will not be a general obligation of the Authority, but will be payable solely from the revenue of the public transportation system. If the RTA issues bonds with a pledge of its full faith and credit, the bonds will be subject to the Revised Municipal Finance Act. The RTA may borrow money and issue municipal securities in accordance with that Act, and exercise all of the powers it confers upon municipalities.

All bonds, notes, or other evidence of indebtedness issued by the RTA, as well as the interest, are exempt from all taxation in Michigan, except for transfer and franchise taxes.

The issuance of bonds, notes, or other evidence of indebtedness by the RTA requires approval of the board.

An agreement entered into under these provisions is payable from the RTA's general funds or, subject to any existing contracts, from any available money or revenue sources, including revenue specified by the agreement, securing the bonds, notes, or other evidence of indebtedness in connection with which the agreement is entered into.

The revenue raised by the RTA may be pledged for the repayment of bonded indebtedness and other expenditures issued or incurred by the authority. A financial obligation of the RTA is a financial obligation of the Authority only, not an obligation of the State or any city or county within a public transit region, and may not be transferred to the State or any city or county.

Public Transportation System; Operating License Agreement

The RTA may acquire, own, construct, furnish, equip, complete, operate, improve, and maintain a public transportation system on the streets and highways of the State with the approval of a local road agency or MDOT, on terms and conditions mutually agreed to by the Authority and that agency or the Department. Approval must be embodied in an operating license agreement with the RTA and each local road agency with operational jurisdiction over the applicable streets and highways or the MDOT, if the Department has operational jurisdiction. A local road agency or MDOT may not unreasonably withhold its consent to an operating license agreement and must determine whether to consent in an expeditious manner. An operating license may include provisions concerning the use of dedicated lanes and a system to change traffic signals in order to expedite public transportation services. Any provision for use of a dedicated lane must require that it be made available to emergency service vehicles.

The RTA may not construct a public transportation system on the streets and highways of a local road agency or MDOT until there is an operating license agreement executed by the two parties.

If a local road agency or MDOT enters into an operating license agreement, it may not revoke the consent or deprive the RTA of the rights and privileges conferred without affording the Authority procedural due process of law.

When operating on the streets and highways of a road agency, the RTA is subject to rules, regulations, or ordinances required to preserve operations of the streets and highways and to ensure compliance with the rules and regulations of the funding source used to construct and maintain them.

The RTA may acquire, own, construct, furnish, equip, complete, operate, improve, and maintain a public transportation system on public or private rights-of-way, and obtain easements when necessary for it to acquire and use private property for the system.

Costs: Constitutional Transportation Purpose

The RTA Act specifies that the costs of planning, administering, constructing, reconstructing, financing, and maintaining State, county, city, and village roads, streets, and bridges designed primarily for the use of motor vehicles using tires, including the costs of reasonable appurtenances to them, are a transportation purpose within the meaning of Article IX, Section 9 of the State Constitution when the costs are to facilitate a public transportation system that moves individuals or goods with vehicles using tires.

Appropriations

The Act appropriated to the RTA \$250,000 from the Comprehensive Transportation Fund to begin implementing the requirements of the Act. Any portion that was not spent in the 2012-13 State fiscal year did not lapse to the General Fund but had to be carried forward in a work project account that was in compliance with Section 451a of the Management and Budget Act.

(Under Section 451a, a work project appropriation is available until completion of the work or 48 months after the last day of the fiscal year in which the appropriation was originally made, whichever comes first; then, the remaining balance lapses to the State fund from which it was appropriated. A work project must be for a specific purpose, contain a specific plan to accomplish its objective, and have an estimated completion cost and completion date.)

Other Provisions

A county or other political subdivision or public or private agency may assist, cooperate with, and contribute services, money, or property in aid of the RTA and its powers, duties, functions, and responsibilities under the RTA Act.

In the exercise of its powers under the Act, the RTA is exempt from the Motor Carrier Act and the Motor Bus Transportation Act.

Local zoning or land use ordinances or regulations do not apply to a public transportation system or a rolling rapid transit system that is planned, acquired, owned, or operated by the RTA.

An election or vote authorized by the RTA Act must be conducted in accordance with the Michigan Election Law.

Repealed Sections

The bill repealed Sections 4a and 4b of the Metropolitan Transportation Authorities Act.

Section 4a provided for the creation of the Regional Transit Coordinating Council (RTCC) for the purpose of establishing and directing public transportation policy within a metropolitan area. The RTCC consisted of the CEOs of Detroit, Macomb County, Monroe County, Oakland County, Washtenaw County, and Wayne County.

Section 4a also provided for the creation of an advisory committee consisting of riders who were senior citizens and/or people with disabilities and who lived within the Southeastern Michigan Transportation Authority (now called the Suburban Mobility Authority for Regional Transportation), and required the committee to report its concerns to the RTCC.

Section 4b prescribed requirements for the RTCC's articles of incorporation and required the RTCC, in conjunction with MDOT, to develop a long-range plan to bring the authorities coordinated by the RTCC into conformity with the State fiscal year.

Senate Bill 911

Under the bill, in addition to the required vehicle registration tax, the Regional Transit Authority created under the RTA Act may charge an additional fee on vehicle registrations issued to

residents of the public transit region. The fee may not exceed \$1.20 for each \$1,000 or fraction of \$1,000 of a vehicle's list price, as used in calculating the regular registration tax. The RTA may charge the additional fee only upon the approval of a majority of the electors in the public transit region voting on the fee at an election held on a regular election date.

In addition to any other requirements imposed by law, the ballot question proposing authorization of the additional fee must specify how its proceeds are to be spent.

A proposal for an additional registration fee may not be placed on the ballot unless the proposal is adopted by a resolution of the RTA's board of directors and certified by the board, at least 70 days before the election, to the clerk of each county within the public transit region for inclusion on the ballot.

If a majority of voters in the public transit region approve the fee, within one year after voter approval the Secretary of State must collect it on all vehicles registered to residents of the region, except historic vehicles, and credit it to the RTA, minus necessary collection expenses as provided in Article IX, Section 9 of the State Constitution. Necessary collection expenses must be based upon an established cost allocation methodology.

The RTA may use the fee only for comprehensive transportation purposes as defined by Article IX, Section 9 of the State Constitution.

Senate Bill 967

The bill allows MDOT or a local road agency to enter into an operating license agreement with a Regional Transit Authority to operate a public transit system on the streets and highways of the State as provided for in State law enacted after January 1, 2012.

As part of the agreement, MDOT or the local road agency may designate at least one lane of a street or highway as a dedicated public transit lane. Such a lane may be reserved for the exclusive use of public transit vehicles operated by the RTA during periods determined by MDOT or the local road agency; however, the lane must be made available at all times to emergency services vehicles. Lanes designated and marked as dedicated public transit lanes under an operating license agreement will be subject to the same provisions as high-occupancy vehicle (HOV) lanes under the Michigan Vehicle Code.

(Under the Vehicle Code, when a lane has been designated as an HOV lane under Public Act 51 of 1951, and has been appropriately marked, the lane must be reserved during the periods indicated for the exclusive use of buses and HOVs (i.e., motor vehicles carrying at least two occupants, including the driver). The restrictions imposed on HOV lanes do not apply to certain vehicles, including authorized emergency vehicles, law enforcement vehicles, motorcycles, and transit and commuter buses.

From December 9, 2008, until December 31, 2010, Public Act 51 authorized MDOT to designate as HOV lanes one or more lanes of highway US 12 in a city with a population of more than 700,000.)

Senate Bill 445

Public Act 51 of 1951 requires the Comprehensive Transportation Fund to be distributed for public transportation purposes to eligible authorities and to eligible governmental agencies that are not within the jurisdiction of an eligible authority. The bill also requires the CTF to be distributed to a Regional Transit Authority created under the RTA Act for public transportation purposes. ("Eligible authority" means an authority organized under the Metropolitan Transportation Authorities Act.)

The bill specifies that, for each eligible authority and each eligible governmental agency within a public transit region (as defined in the RTA Act), the Regional Transit Authority must apply for, receive, and disburse funds under Section 8 of the RTA Act. (That section makes the RTA the

designated recipient for its public transit region for purposes of applying for Federal grants, and gives the RTA the sole authority to apply to MDOT for a public transit region for programs under Section 10e of Public Act 51.)

Section 10e of Public Act 51 requires money from the CTF to be spent for specific purposes related to public transportation in a particular order of priority. The third priority is payment of operating grants to eligible authorities and eligible governmental agencies according to specific formulations. In particular, eligible authorities and governmental agencies that provide public transportation services in urbanized areas with a Michigan population of more than 100,000 may receive a grant of up to 50% of their eligible operating expenses. Those that provide services in urbanized areas with a Michigan population of 100,000 or less and nonurbanized areas may receive a grant of up to 60% of their eligible operating expenses.

Under the bill, for each 12-month period beginning on October 1, \$2.0 million must be returned from this distribution by each eligible authority organized or continued under the RTA Act as a credit to the cities, villages, and townships within the Authority that receive credits or are eligible to receive credits as of October 1, 2001, for public transportation purposes and that apply to the RTA for the credit. Previously, the requirement to return money applied to each multicounty authority created under the Metropolitan Transportation Authorities Act.

Public Act 51 describes the general functions of MDOT in the administration of funds for comprehensive transportation services. These functions include administering and distributing money from the CTF and the proceeds of notes and bonds sold for public transportation purposes. Under the bill, this provision applies except as provided in Section 8 of the RTA Act.

In addition, the bill includes references to the RTA in provisions of Public Act 51 regarding the auditing of financial transactions and accounts related to CTF distributions, as well as the issuance of notes in anticipation of payment of CTF proceeds.

MCL 247.660c et al. (S.B. 445)
124.541-124.558 (S.B. 909)
257.801j (S.B. 911)
125.3205 (S.B. 912)
247.651 (S.B. 967)

BACKGROUND

Article IX, Section 9 of the State Constitution provides that all specific taxes, except general sales and use taxes and regulatory fees, imposed on motor vehicle and aircraft fuel sales and registered motor vehicles and aircraft must be used exclusively for transportation purposes.

At least 90% of the specific taxes, excluding general sales and use taxes and regulatory fees, on motor vehicle fuel and registered motor vehicles must be used exclusively for the transportation purposes of planning, administering, constructing, reconstructing, financing, and maintaining State, county, city, and village roads, streets, and bridges designed primarily for the use of motor vehicles using tires, and reasonable appurtenances to those roads, streets, and bridges.

The remaining balance of those specific taxes, 100% of the specific taxes imposed on aircraft fuel and registered aircraft, excluding general sales and use taxes and regulatory fees, and up to 25% of the general sales taxes imposed on sales of motor vehicles, motor vehicle fuels, and parts and accessories, must be used exclusively for comprehensive transportation purposes as defined by law.

Public Act 51 of 1951 defines "comprehensive transportation purpose" as the movement of people and goods by publicly or privately owned water vehicle, bus, railroad car, street railway, aircraft, rapid transit vehicle, taxicab, or other conveyance that provides general or special service to the public, except for charter or sightseeing service or transportation for school purposes exclusively.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 909

State: The bill appropriated \$250,000 in restricted Comprehensive Transportation Fund money to cover the initial start-up costs of the Regional Transit Authority. It is anticipated that all future costs to administer and operate the RTA, including the development of a public website and dashboard and making the required annual report to the Legislature, will come from planning grants and revenue generated in the region from bonds or additional fees charged to local residents.

The State may lose revenue from the tax exemptions that are granted to the property on which the RTA is located. The amount of potential loss is indeterminate and dependent on the exact location of the property and its valuation at the time a tax exemption is granted.

Local: The RTA may issue self-liquidating revenue bonds for the purpose of acquiring, improving, enlarging, or extending a public transit system. The bonds will be payable solely from the revenue of the public transit system and thus will not be a cost to the State or local residents. However, local residents within the RTA may be asked to support a variety of funding proposals via ballot initiatives to cover the costs of administering and operating the RTA. Proposals may include the requirement for local residents to pay an assessment and/or an additional vehicle registration tax to support the RTA and its projects.

Senate Bill 911

State: The Department of State estimated a cost to the Department of \$1.3 million to implement the provisions of this bill. These costs consisted of a one-time \$1.1 million for the programming necessary to add the additional tax to vehicle registrations, along with a one-time cost of \$66,000 for staffing costs associated with the programming. In addition, there will be an annual cost of an estimated \$100,000 for the Department to distribute the revenue directly to the RTA. Finally, there may be some additional costs associated with the staff at branch offices who will collect the additional tax; however, these costs are indeterminate and will depend on the approval of the additional tax.

Local: According to the Department of State, based on FY 2009-10 data, the average cost of a passenger vehicle registration was \$103. This equates to an average valuation of a passenger vehicle of \$21,000. In the four counties (Macomb, Oakland, Washtenaw, and Wayne) that comprise the RTA, there were approximately 3.0 million vehicle registrations in FY 2009-10. If approved by the voters within the RTA, the additional fee of \$1.20 per \$1,000 of a vehicle's value will result in an average increase of an estimated \$25 per vehicle. Based on the 3.0 million transactions in FY 2009-10, this equates to an estimated additional \$75.0 million annually in revenue for the Authority.

With voter approval, local residents will be required to pay up to \$1.20 per \$1,000 in vehicle valuation, per vehicle annually. The cost to a local resident will depend on the number of vehicles he or she owns and their value. As stated above, the cost based on the average value of a vehicle in FY 2009-10 would be an estimated \$25 per year, per vehicle.

Senate Bills 912 and 967

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

Senate Bill 445

The bill will have no fiscal impact on State or local government. The Department of Transportation anticipates that the distribution of funds will continue to the same local units as under previous law.

Fiscal Analyst: Joe Carrasco

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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.