

**SUBSTITUTE FOR
HOUSE BILL NO. 5168**

A bill to amend 2012 PA 387, entitled
"Regional transit authority act,"
by amending section 6 (MCL 124.546).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) Within 30 days after the appointment of the
2 members of a board under section 5, the board shall hold its first
3 meeting at a date and time to be determined by the governor's
4 representative. The governor's representative shall serve without
5 vote and shall serve as chairperson of the board. The board members
6 shall elect officers as necessary. The board shall elect all
7 officers annually.

8 (2) The business of a board shall be conducted at a public
9 meeting held in compliance with the open meetings act, 1976 PA 267,
10 MCL 15.261 to 15.275. Public notice of the date, time, and place of

1 the meeting shall be given in the manner required by the open
2 meetings act, 1976 PA 267, MCL 15.261 to 15.275. A board shall
3 adopt bylaws consistent with the open meetings act, 1976 PA 267,
4 MCL 15.261 to 15.275. After organization, a board shall adopt a
5 schedule of regular meetings. A board shall meet at least once each
6 quarter. A special meeting of a board may be called by the
7 chairperson of the board or as provided in the bylaws of the board.

8 (3) A majority of the voting members of a board constitute a
9 quorum for the transaction of the business of an authority. Actions
10 of a board shall be by simple majority vote of all voting members
11 of the board, except as follows:

12 (a) A board shall provide in its bylaws that the following
13 actions require the approval of 7/9 of the voting members, and the
14 7/9 must include the affirmative vote of at least 1 member from
15 each participating county and a member appointed under section
16 5(1)(f):

17 (i) The placing of a question of the levy of an assessment
18 under section 10(2) on the ballot by an authority.

19 (ii) The determination of the rate of, or amount of, any
20 assessment to be requested by an authority at an election.

21 (iii) The placing of a question of approving a motor vehicle
22 registration tax on the ballot by an authority.

23 (iv) The determination of the rate of, or amount of, any motor
24 vehicle registration tax to be requested by an authority at an
25 election.

26 (v) BEGINNING ON JULY 1, 2024, APPROVAL OF AN AGREEMENT FOR
27 THE TRANSFER TO THE AUTHORITY OF ASSETS OF A NONPROFIT STREET

1 **RAILWAY CORPORATION ORGANIZED UNDER THE NONPROFIT STREET RAILWAY**
2 **ACT, 1867 PA 35, MCL 472.1 TO 472.27.**

3 (b) A board shall provide in its bylaws that the following
4 actions require the unanimous approval of all voting members of the
5 board:

6 (i) A determination to acquire, construct, operate, or maintain
7 any form of rail passenger service within a public transit region.
8 **BEGINNING ON JULY 1, 2024, THIS SUBPARAGRAPH DOES NOT APPLY TO A**
9 **STREET RAILWAY SYSTEM ORGANIZED UNDER THE NONPROFIT STREET RAILWAY**
10 **ACT, 1867 PA 35, MCL 472.1 TO 472.27.**

11 (ii) A determination to acquire a public transportation
12 provider. Unless an authority secures the affirmative vote of a
13 majority of the electors of each member county in the public
14 transit region as provided in section 7(2), the authority shall not
15 acquire a public transportation provider that does business in a
16 public transit region unless both of the following conditions are
17 satisfied:

18 (A) All accrued liabilities, funded and unfunded, of the
19 public transportation provider being acquired have been paid or are
20 required to be paid by a person other than the authority.

21 (B) The board unanimously agrees to comply with all
22 requirements for obtaining federal operating and capital assistance
23 grants under the moving ahead for progress in the 21st century act,
24 Public Law 112-141, and the regulations promulgated under the
25 moving ahead for progress in the 21st century act, Public Law 112-
26 141, with respect to the public transportation provider being
27 acquired.

1 (iii) A determination to place on a ballot the question of
2 acquiring, accepting responsibility for, or obligating itself to
3 assume liability for or to pay any legacy costs, including, but not
4 limited to, costs associated with litigation, claims, assessments,
5 worker's compensation awards or charges, swap losses, pensions,
6 health care, or other postemployment benefits, of a public
7 transportation provider that may be purchased, merged with,
8 assumed, or otherwise acquired by an authority.

9 (4) A board shall keep a written or printed record of each
10 meeting. A written or printed record of each meeting and any other
11 document or record prepared, owned, used, in the possession of, or
12 retained by an authority in the performance of an official function
13 shall be made available to the public under the freedom of
14 information act, 1976 PA 442, MCL 15.231 to 15.246.

15 (5) A board shall provide for a uniform system of accounts for
16 an authority to conform to and for the auditing of the authority's
17 accounts. The board shall obtain an annual audit of an authority by
18 an independent certified public accountant and report on the audit
19 and auditing procedures under sections 6 to 13 of the uniform
20 budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433.
21 The audit shall be in accordance with generally accepted government
22 auditing standards and shall satisfy federal regulations regarding
23 federal grant compliance audit requirements. An audit obtained
24 under this subsection shall be filed with the state treasurer and
25 the department.

26 (6) Within 90 days after the first board meeting, a board
27 shall adopt and maintain a budget for the fiscal year in accordance

1 with the uniform budget and accounting act, 1968 PA 2, MCL 141.421
2 to 141.440a.

3 (7) Within 90 days after the first board meeting, a board
4 shall establish policies and procedures for the purchase of, the
5 contracting for, and the providing of supplies, materials,
6 services, insurance, utilities, third-party financing, equipment,
7 printing, and all other items as needed by an authority to
8 efficiently and effectively meet its needs using competitive
9 procurement methods to secure the best value for the authority. A
10 board shall make all discretionary decisions concerning the
11 solicitation, award, amendment, cancellation, and appeal of
12 authority contracts. In establishing policies and procedures under
13 this subsection, a board shall provide for the acquisition of
14 professional services, including, but not limited to, architectural
15 services, consulting services, engineering services, surveying
16 services, accounting services, services related to the issuance of
17 bonds, and legal services, in accordance with a competitive,
18 qualifications-based selection process and procedure for the type
19 of professional service required by an authority.

20 (8) Beginning 1 calendar year after the creation of an
21 authority under this act, the board shall submit a report to the
22 house of representatives and senate appropriations subcommittees on
23 transportation and the house of representatives and senate
24 committees on transportation on March 31 of each year that includes
25 all of the following information from the preceding calendar year:

26 (a) Financial status of the authority.

27 (b) Financial status of public transportation providers within

1 the public transit region.

2 (c) Operating costs of the authority.

3 (d) The status of any rolling rapid transit system.

4 (e) The average daily and annual ridership of a rolling rapid
5 transit system.

6 (f) The dashboard developed by the authority under subsection
7 (9) (d).

8 (g) The number and severity of any accidents that occur that
9 involve a rolling rapid transit system.

10 (9) Within 120 days after the first board meeting, a board
11 shall establish a website for the authority and the authority shall
12 post on the website its budget, policies and procedures, and
13 updates on authority activities and transactions and the progress
14 of any project, including, but not limited to, a proposed rolling
15 rapid transit system, as they become available. An authority shall
16 also post all of the following information on a website established
17 under this subsection:

18 (a) An asset management plan for all revenue vehicles and
19 facilities, major facility components, and major pieces of
20 equipment as defined by the department. An authority shall update
21 the asset management plan annually.

22 (b) The method used by the authority to determine the
23 percentage of operating costs that will be funded with local funds
24 and the percentage that will be funded with fares. An authority
25 shall update this information every 3 years.

26 (c) A plan and a commitment to conduct a survey of user
27 satisfaction and a survey of general public satisfaction with the

1 services and performance of the authority once every 3 years. An
2 authority shall provide results for the most recent completed
3 surveys under this subdivision to the department.

4 (d) A dashboard of the authority's performance that includes,
5 at a minimum, the information required under subdivisions (a)
6 through (c). The dashboard shall also include annual performance
7 indicators for the authority that have been established by the
8 board. The dashboard shall be readily available to the public, and
9 the authority shall update the dashboard annually.

10 (10) A board may not enter into a cost plus construction
11 contract unless all of the following apply:

12 (a) The contract cost is less than \$50,000.00.

13 (b) The contract is for emergency repair or construction
14 caused by unforeseen circumstances.

15 (c) The repair or construction is necessary to protect life or
16 property.

17 (d) The contract complies with state and federal law.

18 (11) Within 90 days after the first board meeting, a board
19 shall adopt a procurement policy consistent with the requirements
20 of this act and federal and state laws relating to procurement.
21 Preference shall be given to firms based in a public transit region
22 and each county within a public transit region, consistent with
23 applicable law.

24 (12) Nothing in this section shall be construed as creating a
25 quota or set-aside for any city or any county in a public transit
26 region, and no quota or set-aside shall be created.

27 (13) An authority shall issue an annual report to the board

1 and each member jurisdiction within a public transit region
2 detailing all contracts entered into and listing the names and
3 headquarters of all authority vendors with whom the authority has
4 contracted for services during the previous fiscal year.

5 (14) Within 90 days after the first board meeting, a board
6 shall establish and adopt all of the following:

7 (a) A policy to govern the control, supervision, management,
8 and oversight of each contract to which an authority is a party.

9 (b) Procedures to monitor the performance of each contract to
10 assure execution of the contract within the budget and time periods
11 provided under the contract. The monitoring shall include oversight
12 as to whether the contract is being performed in compliance with
13 the terms of the contract, this act, and federal and state law. The
14 chief executive officer or other authorized employee of an
15 authority shall not sign or execute a contract until the contract
16 is approved by the board.

17 (c) Policies to ensure that an authority does not enter into a
18 procurement or employment contract with a person who has been
19 convicted of a criminal offense related to the application for or
20 performance of a contract or subcontract with a governmental entity
21 in any state. As used in this subdivision and subdivision (d),
22 "person" includes affiliates, subsidiaries, officers, directors,
23 and managerial employees of a business entity, or an individual or
24 entity who, indirectly or directly, holds a pecuniary interest in a
25 business entity of 20% or more.

26 (d) Policies to ensure that the authority does not enter into a
27 procurement or employment contract with a person who has been

1 convicted of a criminal offense, or held liable in a civil
2 proceeding, in this state or any other state, that negatively
3 reflects on the person's business integrity, based on a finding of
4 embezzlement, theft, forgery, bribery, falsification or destruction
5 of records, receiving stolen property, violation of state or
6 federal antitrust statutes, or similar laws.

7 (15) An authority is not required to use competitive bidding
8 when acquiring proprietary services, equipment, or information
9 available from a single source, such as a software license
10 agreement. An authority may enter into a competitive purchasing
11 agreement with the federal government, this state, or other public
12 entities for the purchase of necessary goods or services. An
13 authority may enter into lease purchases or installment purchases
14 for periods not exceeding the useful life of the items purchased
15 unless otherwise prohibited by law. In all purchases made by an
16 authority, if consistent with applicable federal and state law,
17 preference shall be given first to products manufactured or
18 services offered by firms based in the authority's public transit
19 region, including, but not limited to, the cities and counties in a
20 public transit region, and second to firms based in this state. An
21 authority shall actively solicit lists of potential bidders for
22 authority contracts from each city and each county in a public
23 transit region. Except as otherwise provided in this section, an
24 authority shall utilize competitive solicitation for all purchases
25 authorized under this act unless 1 or more of the following apply:

26 (a) An emergency directly and immediately affecting service or
27 public health, safety, or welfare requires the immediate

1 procurement of supplies, materials, equipment, or services to
2 mitigate an imminent threat to public health, safety, or welfare,
3 as determined by an authority or its chief executive officer.

4 (b) Procurement of goods or services is for emergency repair
5 or construction caused by unforeseen circumstances when the repair
6 or construction is necessary to protect life or property.

7 (c) Procurement of goods or services is in response to a
8 declared state of emergency or state of disaster under the
9 emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

10 (d) Procurement of goods or services is in response to a
11 declared state of emergency under 1945 PA 302, MCL 10.31 to 10.33.

12 (e) Procurement of goods or services is in response to a
13 declared state of energy emergency under 1982 PA 191, MCL 10.81 to
14 10.89.

15 (f) Procurement of goods or services is under a cooperative
16 purchasing agreement with the federal government, this state, or
17 another public entity for the purchase of necessary goods and
18 services at fair and reasonable prices using a competitive
19 procurement method for authority operations.

20 (g) The value of the procurement is less than \$25,000.00, and
21 the board has established policies or procedures to ensure that
22 goods or services with a value of less than \$25,000.00 are
23 purchased by the board at fair and reasonable prices, including a
24 requirement that for purchases and sales of \$25,000.00 or less, but
25 over \$5,000.00, written price quotations from at least 3 qualified
26 and responsible vendors shall be obtained or a memorandum shall be
27 kept on file showing that fewer than 3 qualified and responsible

1 vendors exist in the market area within which it is practicable to
2 obtain quotations. Procurement of goods or services with a value of
3 less than \$5,000.00 may be negotiated with or without using
4 competitive bidding as authorized in a procurement policy adopted
5 by the board.

6 (16) Notwithstanding any other requirement of this act, if an
7 authority applies for and receives state or federal ~~funds~~ **MONEY**
8 that ~~require~~ **REQUIRES** the authority to comply with procurement or
9 contracting requirements that are in conflict with this act, the
10 state or federal requirements shall take precedence over the
11 requirements of this act.

12 (17) A board may employ personnel as it considers necessary to
13 assist the board in performing the powers, duties, and
14 jurisdictions of the authority, including, but not limited to,
15 employment of a chief executive officer and other senior executive
16 and administrative staff. A board shall hire a chief executive
17 officer and any necessary support staff for the chief executive
18 officer. Individual board members shall not hire or be assigned
19 personal staff.

20 (18) A board shall establish policies to ensure that the board
21 and an authority do not do either of the following:

22 (a) Fail or refuse to hire, recruit, or promote; demote;
23 discharge; or otherwise discriminate against an individual with
24 respect to employment, compensation, or a term, condition, or
25 privilege of employment, or a contract with the authority in a
26 manner that is not in compliance with state or federal law.

27 (b) Limit, segregate, or classify an employee, a contractor,

1 or an applicant for employment or a contract in a way that deprives
2 or tends to deprive the employee, contractor, or applicant of an
3 employment opportunity or otherwise adversely affects the status of
4 an employee, contractor, or applicant in a manner that is not in
5 compliance with state or federal law.

6 (19) A board shall create a citizens' advisory committee that
7 consists of public transit region residents. The citizens' advisory
8 committee shall be composed as follows:

9 (a) Forty percent of the committee shall be made up of users
10 of public transportation, as follows:

11 (i) At least 25% of the users of public transportation on the
12 committee shall be senior citizens or persons with disabilities.

13 (ii) Two users of public transportation from each of the
14 following counties within the public transit region for the
15 authority:

16 (A) The qualified county.

17 (B) The county with the second largest population according to
18 the most recent decennial census.

19 (C) The county with the third largest population according to
20 the most recent decennial census.

21 (D) The county with the fourth largest population according to
22 the most recent decennial census.

23 (iii) Two users of public transportation from the city in the
24 qualified county with the largest population according to the most
25 recent decennial census.

26 (iv) Two users of public transportation from each additional
27 county participating in the authority under section 4 and not

1 listed in subparagraph (ii).

2 (b) Twenty percent of the committee shall be made up of
3 individuals from organizations representing senior citizens and
4 persons with disabilities.

5 (c) Forty percent of the committee shall be made up of
6 individuals representing business, labor, community, and faith-
7 based organizations.

8 (20) A citizens' advisory committee created under subsection
9 (19) may meet at least once every quarter. The citizens' advisory
10 committee may make reports to a board, including recommendations,
11 at each board meeting. A citizens' advisory committee may do all of
12 the following:

13 (a) Review and comment on the comprehensive regional public
14 transit service plan for a public transit region and all annual
15 updates.

16 (b) Advise a board regarding the coordination of functions
17 between different owners and operators of public transportation
18 facilities within a public transit region.

19 (c) Review and comment on a specialized services coordination
20 plan required by section 10e of 1951 PA 51, MCL 247.660e.

21 (d) Upon request of a board, provide recommendations on other
22 matters that concern public transportation in a public transit
23 region.

24 (21) A board shall create a public transportation provider
25 advisory council that consists of 2 members appointed by each
26 public transportation provider in the public transit region. The
27 public transportation provider advisory council may make reports to

1 a board, including recommendations, at each board meeting. The
2 public transportation provider advisory council shall only make
3 recommendations to a board on the following issues:

4 (a) Coordination of service.

5 (b) Funding.

6 (c) Plans.

7 (d) Specialized services.

8 (e) Other matters as requested by a board.

9 (22) TO SECURE FEDERAL MONEY FOR AN AUTHORITY OR ACTIVITIES OF
10 AN AUTHORITY UNDER THIS ACT, THE BOARD MAY ENTER INTO AN AGREEMENT
11 WITH A STREET RAILWAY ORGANIZED UNDER THE NONPROFIT STREET RAILWAY
12 ACT, 1867 PA 35, MCL 472.1 TO 472.27, OR TAKE OTHER ACTION
13 NECESSARY FOR THE RECOGNITION BY THE UNITED STATES DEPARTMENT OF
14 TRANSPORTATION OF ACTIVITIES OR FUNCTIONS OF THE AUTHORITY OR THE
15 STREET RAILWAY AS A CONNECTED PROJECT.

16 (23) THE BOARD SHALL ENSURE THAT 100% OF FEDERAL MATCHING
17 MONEY OR AID RECEIVED BY THE AUTHORITY FOR THE CONSTRUCTION OR
18 OPERATION OF A STREET RAILWAY SYSTEM UNDER THE NONPROFIT STREET
19 RAILWAY ACT, 1867 PA 35, MCL 472.1 TO 472.27, WITHIN A PUBLIC
20 TRANSIT REGION IS EXPENDED ON PUBLIC TRANSPORTATION SERVICE ROUTES
21 LOCATED IN THE COUNTY OR COUNTIES IN WHICH THE STREET RAILWAY
22 SYSTEM WAS CONSTRUCTED. IF THE AUTHORITY ACCEPTS A TRANSFER OF
23 ASSETS OF A STREET RAILWAY ORGANIZED UNDER THE NONPROFIT STREET
24 RAILWAY ACT, 1867 PA 35, MCL 472.1 TO 472.27, AS PROVIDED IN
25 SUBSECTION (3) (A) (v) AND THE STREET RAILWAY OPERATES EXCLUSIVELY ON
26 ROUTES LOCATED WITHIN A QUALIFIED COUNTY, THE AUTHORITY SHALL
27 ENSURE THAT ANY OPERATIONAL DEFICIT RELATED TO THE OPERATION OF

1 THAT STREET RAILWAY IS PAID WITH MONEY RAISED IN THE QUALIFIED
2 COUNTY OR A MEMBER JURISDICTION WITHIN THE QUALIFIED COUNTY.