

# STATE TRANSPORTATION COMMISSION/MDOT DIRECTOR/UPTRAN DIRECTOR



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## FISCAL ANALYSIS

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### HOUSE BILL 6487 AS INTRODUCED

**Sponsor:** Rep. Judson Gilbert  
**House Committee:** Transportation

### COMMITTEE ANALYSIS - 11/19/02

**Analyst(s):** William Hamilton

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#### Summary:

House Bill 6487 would amend PA 286 of 1964 (MCL 247.801 et. seq.) which provides for the organization, powers, and duties of the State Transportation Commission and state transportation department, and for the appointment, powers, and duties of the state transportation director. The bill would transfer authority to award contracts and to buy/hold/sell property from the State Transportation Commission to the director of the Department of Transportation. The bill would also repeal Section 5a of the Act (247.805a) which establishes the chief administrative officer of the Bureau of Urban and Public Transportation (UPTRAN), within the Department of Transportation, as an appointee of the Governor, with the advice and consent of the Senate.

The bill has no apparent fiscal impact.

#### Analysis:

House Bill 6487 would amend PA 286 of 1964 (MCL 247.801 et. seq.) which provides for the organization, powers, and duties of the state transportation commission and state transportation department, and for the appointment, powers, and duties of the state transportation director. A detailed analysis of the affected sections follows below.

#### ***Authority of Commission/Director***

The bill would transfer authority to award contracts and to buy/hold/sell property from the State Transportation Commission to the director of the Department of Transportation.<sup>1</sup> The bill would add language to define the commission's policy making role: "The commission shall establish policy by resolution or rule for the guidance and direction of the director." The bill would also repeal Section 10 of the Act (247.810) which is related to the commission's current authority to convey interests or rights in land.

This change would bring statute in accord with Article 5, Section 28 of the Michigan Constitution of 1963<sup>2</sup>. Article 5, Section 28 established a state transportation commission "*which shall establish policy for the state transportation department transportation programs and facilities, and such other public works of the state as provided by law*". The section also provides for a director of the state transportation department who "*shall be appointed as provided by law and*

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<sup>1</sup> The specific language in Section 7 of current law states that the powers and duties of the commission shall include "the awarding of all contracts for construction, improvement, and maintenance of highways and transportation facilities under its jurisdiction, as provided by law." The section further states that the commission may "acquire, own, and hold real and personal property in the name of the state or the commission and sell, lease, or otherwise dispose of, or encumber, the same in furtherance of, its duties and the purposes of this act." [Emphasis added]. The bill would effectively grant this authority to the director under Section 6a which begins "The director may do the following:"

<sup>2</sup> Article 5, Section 28 was amended in 1978 (Proposal M). This amendment changed the name of the commission from the State Highway Commission to the State Transportation Commission and the name of the department from the State Highway Department to the Department of Transportation. The amendment also limited the authority of the commission to establishing policy. Prior the adoption of Proposal M the commission had constitutional authority to "administer the state highway department."

*shall be the principal executive officer of the state transportation department and shall be responsible for executing the policy of the state transportation commission.”*

Attorney General Opinion No 5547 issued August 16, 1979 indicated that the power granted to the State Transportation Commission by PA 484 of 1978 (which amended PA 286) regarding the awarding of contracts, and selling, leasing, or other disposition of real and personal property, impinged on the constitutional authority of the department director. See <http://www.ag.state.mi.us/opinion/datafiles/1970s/op05547.htm>

The department indicates that despite the proposed change in statute, the State Transportation Commission would continue to review and approve contracts and property transactions. In addition, the State Administrative Board would continue to exercise oversight of department contracts and property transactions. The department director would award and execute contracts and property transactions in the name of the state or the department.

**Transitional Powers** - The bill would repeal Section 6 of Act 286 (247.806) which provided for transitional powers for State Highway Commission as it assumed the powers of the State Highway Commissioner in 1964. The office of State Highway Commissioner had been abolished with the approval of the State Constitution of 1963.

**UPTRAN Director** – The bill would repeal Section 5a of the Act (247.805a). This section was added to PA 286 by PA 484 of 1978 to establish the chief administrative officer of the Bureau of Urban and Public Transportation (UPTRAN), within the Department of Transportation, as an appointee of the Governor, with the advice and consent of the Senate. This section effectively requires that the director of UPTRAN be an unclassified employee. Repeal of this section would allow this position to be filled as a classified (civil service) employee. Repeal of the section would not prevent the position from being filled as an unclassified position.

Note that the department recently reorganized to combine UPTRAN and the Bureau of Aeronautics into a single “Multi-modal Bureau.”

**Fiscal Impact** – House Bill 6487’s proposed amendments to PA 286 of 1964, as described above, would have no apparent fiscal impact on state or local costs or revenues.