

SERVICE AREAS UNDER THE REGIONAL TRANSIT AUTHORITY ACT

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House Bill 5550 as introduced
Sponsor: Rep. Diana Farrington
Committee: Government Operations
Complete to 2-26-20

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5550 would amend the Regional Transit Authority Act to allow for the creation of one or more service areas in a public transit region that do not include each county in the public transit region.

The bill would add a new section 7a to the act, which would allow the creation of one or more service areas that do not include each county in the public transit region for the purpose of performing or exercising in that service area any function, service, power, or privilege that the regional transit authority can perform or exercise under law. A service area would have to be a contiguous geographic area within a public transit region and would have to include at least two counties.

Creation and amendment of a service area

Before the board (the governing body of the authority) approved a tax in a service area, a county in a public transit region could elect not to participate in the service area if all of the following conditions were met:

- The county's board of county commissioners adopts a resolution electing not to participate in the service area.
- The county's county executive, if there is one, approves the resolution.
- A copy of the resolution is transmitted to the board.

A county that elected not to participate in a service area could not be included in the service area. A board member from a county not in a proposed service area could not vote on whether to create the service area. If a service area only included a portion of a public transit region, only the voters in the counties included in the service area could vote on a ballot proposal for a tax assessment within the service area, and that assessment could only be levied against property in the service area.

If a service area was amended to include a county not in the service area, that expansion could not take effect unless the assessment levied in the service area was approved by all of the following:

- That county's board of county commissioners.
- That county's county executive, if there is one.
- A majority of the voters in that county voting on the assessment at the first general or special election held on a regular election date to occur at least 71 days after the board approved the expansion of the service area.

Approval of a majority of the voting members appointed by a county or city within a proposed service area, including the affirmative vote of at least one board member from each county and city appointing a board member within the proposed service area, would be required to do any of the following:

- Create or amend the service area.
- Place on the ballot in the service area a question of levying or renewing an assessment under the act.
- Determine the rate or amount of an assessment to be requested within a service area.
- Adopt or amend any implementation plan required by the Federal Transit Administration for the service area.
- Determine to construct, operate, maintain, or own any form of rail passenger service within the service area.
- Expend revenue from a tax levied within the service area.

Service area assessment

The bill would allow an authority to levy an assessment in a service area only as approved by authorized board members and a majority of the voters in the service area voting on the question, as described above. Such an assessment would be levied as a tax within the service area only and collected and enforced in the service area under the General Property Tax Act. The authority would have to use money from the assessment within the service area for purposes authorized by the act.

As currently for an assessment levied in the public transit region, when submitting a proposal on the question of authorizing an assessment to be levied in a service area, the ballot would have to include information required under the General Property Tax Act, including the following:

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

The total of assessments levied for the public transit region and for a service area could not exceed 3 mills on each dollar of taxable value of property within any portion of the public transit region at any one time.

A tax assessment levied for the public transit region or for a service area could not be attributed to, transmitted to, retained by, or captured by any other governmental entity for purposes not authorized under the act.

Voting requirements

The act currently prescribes voting requirements for certain actions of the board (see **Background**, below). The bill would amend these requirements to provide that (except as provided in new section 7a and except for those actions requiring a supermajority or unanimous vote) all board actions must have not merely a majority vote of all voting

members, but also the affirmative vote of at least one member from each participating county as well as the member appointed by the mayor of the city of Detroit.

The bill would modify the supermajority provisions of section 6(3) to provide that, with respect to a determination to acquire, construct, operate, or maintain a commuter rail line operating between Detroit and Ann Arbor, the voting requirements of new section 7a (described above) would apply instead.

The bill would modify the requirement that certain actions of the board be approved by a unanimous vote to provide that, with respect to a determination to acquire, construct, operate, or maintain any form of rail passenger service within a service area, the voting requirements of new section 7a would apply instead.

Finally, the bill would amend the requirement of a unanimous vote of the board for certain actions to specify that the required unanimity excludes any member not voting due to a conflict of interest.

MCL 124.546 and 125.550 and proposed MCL 124.547a

BACKGROUND:

Section 1a of the Regional Transit Authority Act states: “The intent of this legislation is to create a regional transit system by establishing a regional transit authority.” The act established a new regional transit authority within a defined “public transit region.” The initial regional transit authority (RTA) established under the act comprised Wayne, Oakland, Macomb, and Washtenaw Counties. Other adjacent counties could join the authority under a process provided in the legislation. However, to date, no additional counties have asked to join the RTA.

The RTA created by the Regional Transit Authority Act is a legal public body in its own right. Although the RTA’s boundary is that of the four counties within the qualified region, the RTA is not simply an instrument or creation of those counties.

Section 5 of the act establishes the governance structure for the RTA. Specifically, the section indicates that the authority is to be directed and governed by a ten-member board of directors, of whom nine are voting members. The section provides for the appointment of the board of directors:

- One appointed by the governor, who serves without vote.
- Two appointed by the county executive of the county in the public transit region with the second largest population (currently Oakland County).
- Two appointed by the county executive of the county in the public transit region with the third largest population (currently Macomb County).
- Two appointed by the county executive of the county in the public transit region with the fourth largest population (currently Washtenaw County).
- Two appointed by the county executive of a *qualified county* as defined in the bill. (This refers to Wayne County.) One of the two individuals appointed under this

provision would need to be a resident of the city with the largest population in the *qualified county*. (This refers to the city of Detroit.)

- One appointed by the mayor of the city with the largest population within the *qualified county*. (This refers to the city of Detroit.)

The Regional Transit Authority Act took effect December 19, 2012. The first RTA board members were appointed in early 2013. The RTA had its first organizational workshop in March 2013 and its first formal meeting in April 2013.

The RTA serves as a planning and coordinating agency with respect to the providers of public transportation services within the region, specifically: the Detroit Department of Transportation (DDOT), the Suburban Mobility Authority for Regional Transportation (SMART), the Detroit Transportation Corporation (operator of the Detroit People Mover), and the Ann Arbor Area Transportation Authority (TheRide).

The RTA has the authority to coordinate operating and capital transit plans of public transportation providers within the region. The RTA has the sole authority to apply for state operating assistance on behalf of the public transportation providers. The RTA is also the region's "designated recipient" for purposes of applying for federal operating and capital assistance grants. The RTA has the authority to operate public transportation systems but, to date, has not done so.

The RTA also has the authority to levy a property tax assessment and/or a local option vehicle registration tax within the public transit region under specific conditions established under section 10 of the act. The RTA does not currently levy a property tax or a local option vehicle registration tax.

Section 6 of the act provides for the powers and duties of the authority's board of directors, including provisions that establish specific voting requirements. Section 6(3) currently requires that all board actions be made by majority vote of the voting members, but also directs that the authority's bylaws require a supermajority for certain actions. Specifically, the act requires the board to provide in its bylaws that certain specific actions require a vote of seven-ninths of voting members and that there be at least one affirmative vote from each participating county and from the representative of the largest city in the qualified county (Detroit). Those specific actions are:

- Placement on the ballot of a question of the levy of an assessment by the authority.
- Determination of the rate or amount of any assessment to be requested by the authority at an election.
- Placement on the ballot of a question of approving a motor vehicle registration tax by the authority.
- Determination of the rate or amount of any motor vehicle registration tax to be requested by the authority at an election.

Section 6(3) also currently requires the board to provide in its bylaws for unanimous approval of voting members for the following actions:

- 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 the authority to assume liability for or to pay any legacy costs, including any costs associated with litigation, claims, assessments, worker’s compensation awards, or charges, swap losses, pensions, health care, or other postemployment benefits, of a *public transportation provider* that may be purchased, merged with, assumed, or otherwise acquired by the authority.”

FISCAL IMPACT:

House Bill 5550 does not appear to have an impact on state costs or revenues. The bill does not appear to have a direct fiscal impact on local units of government. The bill is permissive in that it allows, but does not require, the creation of a service area within a public transit region.

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