



**House  
Legislative  
Analysis  
Section**

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**COUNCIL TO REORGANIZE SEMTA**

House Bill 5571 as enrolled  
Third Analysis (1-12-89)

**RECEIVED**

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Sponsor: Rep. Curtis Hertel

House Committee: Transportation

Senate Committee: State Affairs, Tourism and  
Transportation

Mich. State Law Library

**THE APPARENT PROBLEM:**

The Metropolitan Transportation Authorities Act of 1967 establishes regional transportation authorities in major metropolitan areas of the state for the purpose of constructing and maintaining public transportation facilities. Almost since its creation, and certainly within the past ten years, the Southeastern Michigan Transportation Authority (SEMTA) has been plagued with controversy concerning its effectiveness. It has been suggested that the authority was doomed to be ineffective from the start because of its lack of a local permanent tax base to ensure adequate funding for the system. Most U.S. metropolitan transit agencies of its size do have a permanent local tax source. Indeed, although the authority provides services to approximately 35,000 to 37,000 bus riders per day, it has been suggested that SEMTA may be the only metropolitan transit agency of its size in the U.S. without a permanent local tax source.

However, lack of a local tax base has not been the only problem facing the system. It became obvious during the development of the People Mover project (early 1980's to present) that the SEMTA board was not as effective as had been hoped. It has been suggested that poor decisions were made concerning the project due to an inability to get consensus among members about the way the project should have been handled. SEMTA's credibility was questioned considerably amid this period of cost overruns and construction problems. (The People Mover project was subsequently taken over by the City of Detroit.) During this same period federal funding began to decrease dramatically, requiring cutbacks of services provided by the authority. SEMTA's failure to effectively administer the People Mover project coupled with a decline in federal funding lead to frequent skepticism about whether the authority could effectively administer the larger transit system. Due to mounting skepticism, several SEMTA members have threatened to withdraw from the system at one time or another within the past eight years, and reorganization plans have been suggested to address the system's problems. Most recently, Oakland County threatened to pull out of SEMTA in 1986 unless the authority was reorganized.

Currently, the authority operates amid accusations of poor management, unresponsiveness, and a projected deficit of \$2.7 million next year and faces possible bankruptcy within the next three years. It has been suggested that SEMTA should remain the entity responsible for mass transit operation within southeastern Michigan in order to maintain contractual agreements with laborers. However, it has also been suggested that the system should be reorganized to address the issues that have been raised.

**THE CONTENT OF THE BILL:**

The bill would establish a Regional Transit Coordinating Council to reorganize the Southeastern Michigan Transportation Authority (SEMTA).

Council. The bill would amend the act to require the chief executive officer of a city with a population of 750,000 or more, of each county in which such a city was located, and of all other counties immediately contiguous to the city to form a corporation to establish and direct public transportation policy within a metropolitan area. The corporation would be known as the regional transit coordinating council. (The corporation would consist of the mayor of the City of Detroit, the Wayne and Oakland County executives, and the chair of the Macomb County Board of Commissioners.) The council would become operative and the articles of incorporation effective at the time provided in the articles of incorporation. The articles of incorporation would state the following:

- the name of the council;
- the purposes for which it was formed;
- the constituent units of the council and the metropolitan area served by it;
- the person(s) charged with the responsibility of causing the articles of incorporation to be published and filed; and
- the method of amending the articles of incorporation.

The counties of Livingston, Monroe, St. Clair, and Washtenaw would be collectively represented on the council by one member, without vote, from one of the counties. If one or more of the counties of Livingston, Monroe, St. Clair and Washtenaw withdrew from the authority, the member on the corporation would rotate between the remaining counties.

The council could adopt public transportation plans for its metropolitan area and coordinate service overlap, rates, routing, scheduling, and like functions between operators of public transportation, but would not have power to employ operating personnel, negotiate collective bargaining agreements with operating personnel, or own operating assets of a public transportation service within the metropolitan area. (The SEMTA system would continue to perform these functions.) The council would act by unanimous vote of its membership entitled to vote and would meet regularly but not less than quarterly. A council member could not designate another representative to serve in his or her place on the council. However, if an emergency financial manager had been appointed under the Local Government Fiscal Responsibility Act with respect to an authority established by the bill, then that emergency financial manager could exercise the authority and responsibilities provided in the bill to the extent allowed under the fiscal responsibility act. Meetings of the Regional Transit Coordinating Council would be subject to the

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**OVER**

provisions of the Open Meetings Act. If a county, whose chief executive officer was not a member of the corporation, withdrew from SEMTA within twelve months after the effective date of the bill, the authority would be required to convey to the county all assets and liabilities attributable to the county. The Michigan Department of Transportation would be required to transmit state funding that was previously transmitted to the authority directly to the county. The bill would also require the department, in conjunction with the council, to develop a long-range plan to bring the authorities coordinated by the council into conformity with the state fiscal year.

Operating and Capital Assistance Grants. The articles of incorporation forming the council would provide for the conduct of the affairs of the council, including provision for the appointment of a general secretary to the council and allocation between the city and any authority representing the counties of any grants applied for by the council. The council would be considered an authority under the act for the sole purpose of receiving transportation operating and capital assistance grants. The bill would specify that the council could not exercise any rights, duties, or powers provided to an authority except as was necessary to receive transportation operating and capital assistance grants. The council would be a "designated recipient" for the purposes of the federal Urban Mass Transportation Act to apply for federal and state transportation operating and capital assistance grants. However, before any state or federal funds were distributed to any of the eligible authorities or eligible governmental agencies coordinated by the council, the bill would require a financial audit of the transit operations for the fiscal year immediately previous to the most recently completed fiscal year to be provided to the Department of Transportation. The department could waive the audit requirement on a temporary basis. The council could designate the City of Detroit and the SEMTA system each as a sub-recipient of federal and state transportation funds. To the extent required by the Federal Urban Mass Transportation Act, the council, the City of Detroit and the authority would execute a supplemental agreement conferring on the designated sub-recipients the right to receive and dispense grant funds and other provisions required by federal law and regulation. The general secretary of the council would submit the council's application for such grants to the responsible federal and state agencies in a timely manner. The application would designate the distribution of all capital and operating funds which would be paid directly to Detroit and SEMTA. If the recipient was the council, the general secretary would remit to Detroit and SEMTA their designated distribution of funds as soon as possible and not more than ten business days after receipt of the funds by the general secretary.

Reorganization of SEMTA. At the earliest date practicable after the effective date of the bill, the board of SEMTA would be required to allocate and convey to the City of Detroit all assets and liabilities utilized or attributable to the city in its present transportation activities at that date located within the city's service area and not pertaining presently to the transportation activities of any other entity. However, before any conveyance could be completed, the board would be required to authorize a comprehensive audit of all assets and liabilities. Copies of the audit would be provided to the Michigan Department of Transportation and the auditor general. Prior to the approval of the audit, fund allocations made by the board would be subject to the approval of the council with some exceptions as provided in the bill. All other assets and liabilities not

utilized by or attributable to the city would remain the property of SEMTA.

Under the act, SEMTA's governing board consists of fifteen members appointed on the basis of population according to the latest federal decennial census, with certain exceptions. The bill would provide that the board be composed of the chief executive officers of each county in which a city having a population of 750,000 or more was located within the area served by SEMTA and of all other counties immediately contiguous to the city (Wayne, Oakland and Macomb counties). Council members could designate a representative to serve on the board. The counties of Livingston, Monroe, St. Clair, and Washtenaw would be collectively represented on the board by one person from the counties as determined by the counties. The county from which the representative member was selected would rotate among the counties at least every two years and the member would be a resident of the county from which the member was to be selected. If one or more of the counties of Livingston, Monroe, St. Clair and Washtenaw withdrew from the authority, the member would rotate among the remaining counties. The board would adopt bylaws and rules of procedure governing its meetings by a majority vote. A majority vote would not be effective unless it included a vote from Wayne, Oakland, and Macomb counties. The bill would require board meetings to be conducted in compliance with the Open Meetings Act. The board could change the name of the authority by a majority vote. The board would also guarantee each of the counties of Livingston, Monroe, St. Clair, and Washtenaw the average percentage of state transportation funds allocated to the authority that each county received in the last five fiscal years before the effective date of the bill for as long as the counties remained members of the authority. The Michigan Department of Transportation would be responsible for determining these percentages.

The bill would require the board to obtain an annual audit. Under the bill, the audit would have to be in accordance with generally accepted government auditing standards as developed by the U.S. General Accounting Office and would have to satisfy federal regulations relating to federal grant compliance audit requirements. A copy of the annual audit would have to be filed with the state treasurer and the Michigan Department of Transportation. The board would also be required to prepare budgets and appropriations acts in accordance with the Uniform Budgeting and Accounting Act. The bill would also provide that if ending a fiscal year in a deficit condition, the board would be required to file a financial plan to correct the deficit condition in the same manner as provided in the State Revenue Sharing Act. A copy of the financial plan would also have to be filed with the Michigan Department of Transportation.

Other changes. The bill would amend the definition of "metropolitan area" to exclude Lapeer County, thus excluding Lapeer County from the area affected by the bill.

The bill would provide for the establishment of an advisory committee composed of riders who are senior citizens or handicapped and who live within the Southeastern Michigan Transportation Authority service area to report their concerns to the council on a regularly scheduled basis.

The bill would exempt authorities from the Motor Bus Transportation Act in the exercise of their power within

their geographical boundaries. The bill would also delete obsolete sections of the act.

MCL 124.402 et al.

### **FISCAL IMPLICATIONS:**

According to the Department of Transportation, the fiscal implications of the bill for the state cannot be determined at this time. However, costs for the state are expected to increase if the SEMTA board implements an increase in service levels. (1-17-89)

### **ARGUMENTS:**

#### **For:**

The Southeastern Michigan Transportation Authority has been plagued with accusations of mismanagement and poor operating procedures. In order to combat these problems the bill would split the policy making entity of the authority from the operating entity of the authority by creating the Regional Transit Coordinating Council. The council would be more effective in addressing transit issues because its members would be elected officials held accountable by their constituents. Further, due to the number of members currently on the SEMTA board, the board is considered cumbersome and ineffective. The bill would reduce the number of transit policy makers from fifteen to four voting members, thereby alleviating some of the confusion within the authority.

#### **Against:**

Under the bill, the Regional Transit Coordinating Council (RTCC) would be the designated recipient of state and federal transit funding and the SEMTA board would allocate the money to the counties and the Detroit Department of Transportation. The RTCC would include representatives of Wayne, Oakland, and Macomb counties and the Detroit Department of Transportation (the "big four") and the SEMTA board would consist of representatives of the counties of Wayne, Macomb, and Oakland (the "big three"). Although both the council and the board would include one representative for the outlying counties, the current structure of the bill would allow the big four to monopolize the use of transit money.

**Response:** Under federal and state guidelines, urbanized areas receive a certain amount of money based on several factors (including intensity of use of the transit system, and so forth). Based on the state and federal guidelines, money allocated to SEMTA (for the outlying counties and the counties of Wayne, Oakland and Macomb) or the Detroit Department of Transportation would have to be dispensed to those agencies. Since Oakland, Wayne, and Macomb counties and the outlying counties are all lumped together and included in the state and federal allocation of transit funding to SEMTA, it is unlikely that the big four would try to jeopardize this system.

**Rebuttal:** Under the bill, it is true that when the RTCC received funds from the state and federal governments the allocation for Oakland, Wayne, and Macomb counties and the outlying counties would come as one lump sum and the funding for the Detroit Department of Transportation would come as a separate lump. However, once the SEMTA board received its share of state and federal transit funding from the RTCC for the outlying counties and the big three, it could allocate the money any way it wanted. Further, since the bill would reduce the present SEMTA board from fifteen voting members to representatives of the big three, it is highly likely that money

previously used for transit funding in outlying counties would be switched to the big three. There is nothing in the bill which would prevent the big three from making this switch.

**Response:** Although nothing in the bill would prevent the SEMTA board from allocating all of the money it received from the RTCC to the big three, the big three have promised not to dramatically change the current allocation of transit funding and have addressed this issue by guaranteeing the outlying counties a certain percentage of state transportation funds. In addition, the big three have pointed out that because they hold a majority of the votes on the current SEMTA board they could change the allocation now if they so desired and there would be no guarantees to stop them.

#### **Against:**

Under the current SEMTA system, outlying counties have a voice in deciding how transit issues are addressed. In addition, with representatives of the big three and the outlying counties on the board there is cooperation and coordination between outlying areas and the big three. Under the bill, there would be no incentive for regional cooperation and coordination.

**Response:** The big three should not, nor do they want, to make transit policy decisions for the outlying counties. If the outlying counties were not satisfied with the board they would be free to form their own regional authority. In addition, the counties would still have a voice in deciding how transit issues were addressed even though according to some calculations the outlying counties only represent two percent of the annual ridership on the SEMTA system.

**Rebuttal:** To suggest that the outlying counties form a regional authority is absurd. The counties are separated geographically and therefore face different situations and needs which would not be effectively addressed by an authority composed of outlying county representatives. Further, SEMTA currently provides the outlying counties with much-needed technical expertise in addition to supporting their systems by making bulk purchases of transportation items (such as tires, fuel, insurance, and so forth). If the counties try to meet their own transit needs they would not be able to receive all of the services that SEMTA currently provides. Some counties estimate that if they did try to provide their own transit service without SEMTA they would probably spend an additional \$100,000 annually on operating costs.

Further, some have calculated that the outlying counties represent seven percent of the annual ridership on the SEMTA system. The outlying counties assert their numbers are substantial enough to warrant voting representation on the council and deletion of the bill's provision requiring unanimous agreement among the big three before the SEMTA board may transact business.