

HOUSE BILL No. 5068

July 27, 2005, Introduced by Reps. Kolb and Donigan and referred to the Committee on Transportation.

A bill to create the Detroit area regional transportation authority; to transfer certain powers of authorities to the Detroit area regional transportation authority; to provide regional transportation; to prescribe certain powers and duties of the authorities and of certain state agencies and officials; to provide for the issuance of bonds and notes; to provide for the state to guarantee payment of certain claims against the authority; to provide for the pledge of taxes, revenues, assessments, tax levies, and other funds for bond and note payments; to authorize certain local entities to levy property taxes and make special assessments; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

ARTICLE I

Sec. 1. This act shall be known and may be cited as the

1 "Detroit area regional transportation authority act".

2 Sec. 2. As used in this act:

3 (a) "Authority" means the Detroit area regional transportation
4 authority created under this act.

5 (b) "Board" means the governing and administrative body of the
6 authority.

7 (c) "Chief executive officer" means, with respect to a city,
8 the mayor of the city and, with respect to a county, either the
9 county executive of the county or, for a county not having a county
10 executive, the chairperson of the county board of commissioners.
11 Chief executive officer means, with respect to the authority or
12 SMART, the chief executive officer of the authority or SMART.

13 (d) "Comprehensive regional public transportation service
14 plan" means the comprehensive regional public transportation
15 service plan described in section 4(3).

16 (e) "Local governmental consortium" means a legal or
17 administrative entity described in section 7 of the urban
18 cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.507, and
19 provided for in an interlocal agreement entered into under that act
20 between cities, villages, or townships within a county in the
21 region that contains a city with a population of 500,000 or more,
22 and in existence before January 1, 2005.

23 (f) "Political subdivision" means a county, city, township,
24 village, local governmental consortium, or school district located
25 within the region.

26 (g) "Public transportation" means the transportation or
27 conveyance of persons within the region or SMART region by means

1 available to the general public, including, but not limited to,
2 senior citizens, citizens with disabilities, and citizens without
3 the economic means to provide their own personal transportation.
4 Public transportation does not include transportation by
5 automobiles not used for conveyance of the general public as
6 passengers.

7 (h) "Public transportation facility" means all property, real
8 and personal, public or private, used for providing public
9 transportation. Public transportation facility includes, but is not
10 limited to, automated guideways, overpasses and skywalks, street
11 railways, buses, tramlines, subways, monorails, rail rapid transit,
12 bus rapid transit, and tunnel, bridge, and parking facilities used
13 in connection with public transportation facilities. Public
14 transportation facility does not include taxis, limousines, state,
15 county, or local roads, highways, ports, airports, motor bus
16 charter services or operations that are not acquired by the
17 authority or SMART, sightseeing services, private intercity bus
18 services, or transportation that is used exclusively for school or
19 church purposes.

20 (i) "Region" means Macomb, Monroe, Oakland, Washtenaw, and
21 Wayne counties and those local governmental consortiums, cities,
22 townships, and villages within those counties. Region includes any
23 county or local governmental consortium that becomes a member under
24 section 6. Region does not include any county or local governmental
25 consortium that has withdrawn from the authority under section 5.

26 (j) "SMART" means the suburban mobility authority for regional
27 transportation described in section 30.

1 (k) "SMART region" means Oakland, Wayne, Monroe, and Macomb
2 counties and the cities, townships, and villages within those
3 counties. The term does not include any county that has withdrawn
4 from SMART or the cities, townships, or villages within that
5 county.

6 (l) "Transit system" means any individual, partnership,
7 corporation, association, municipal corporation, limited liability
8 company, public authority, public benefit agency, unit of
9 government, or any person or entity other than the authority, or
10 SMART that provides public transportation.

11 ARTICLE II

12 Sec. 3. (1) The authority is established, and the initial
13 members of the authority are all counties, cities, townships, and
14 villages within the region.

15 (2) The authority is an agency and instrumentality of the
16 state and except as provided in this act has all of the powers of a
17 public corporation if exercised for 1 or more of the following
18 purposes:

19 (a) Planning public transportation facilities.

20 (b) Designing public transportation facilities.

21 (c) Constructing public transportation facilities.

22 (d) Operating public transportation facilities.

23 (e) Administering public transportation facilities.

24 (f) Acquiring public transportation facilities.

25 (g) Contracting to provide public transportation facilities.

26 (h) Maintaining, replacing, improving, and extending public
27 transportation facilities.

1 (i) Exercising the powers of a public transportation facility.

2 (3) The authority shall not have the authority to design,
3 construct, or operate ports or airports. The authority may provide
4 service to and at ports and airports for the purpose of conveying
5 the public to ports and airports.

6 (4) The authority shall not spend any public funds on
7 political activities.

8 (5) The authority shall take all reasonable measures to
9 provide regional transportation for senior citizens, citizens with
10 disabilities, and citizens without the economic means to provide
11 their own personal transportation. The authority shall take all
12 reasonable measures to see that regional transportation services
13 for those citizens are the first services provided by the authority
14 and that regional transportation services for those citizens are
15 the last services reduced by the authority if the authority reduces
16 services.

17 (6) The authority shall take all reasonable measures to
18 provide adequate transportation services to citizens other than
19 senior citizens, citizens with disabilities, or citizens without
20 the economic means to provide their own personal transportation.

21 Sec. 4. (1) The authority shall provide for public
22 transportation facilities for the region. In providing for public
23 transportation facilities, the authority may exercise the powers
24 provided for in section 3(2). The authority shall fulfill its
25 obligations under section 3(5), and shall take all reasonable and
26 necessary measures to ensure that it meets its obligations under
27 section 3(5) and (6) in the most cost-effective manner possible.

1 (2) It is the intent of the legislature that, by October 1,
2 2006, the board shall become the designated recipient for purposes
3 of receiving federal funds under 49 USC 5307, 5308, 5309, 5310,
4 5311, and 5313, and the regulations promulgated under that statute.
5 As the designated recipient, the board shall apply for federal and
6 state transportation operating and capital assistance grants, and
7 the board may designate the authority, a city with a population of
8 more than 750,000, SMART, and other transit systems not included in
9 a city of more than 750,000 population as subrecipients of federal
10 and state transportation funds. To the extent required by 49 USC
11 5307, 5308, 5309, 5310, 5311, and 5313, the board shall execute an
12 agreement conferring on a city with more than 750,000 population,
13 SMART, and other transit systems not included in the city of more
14 than 750,000 population the right to receive and dispense grant
15 funds and containing any other provisions that federal law and
16 regulations require. On behalf of the board, the secretary of the
17 board shall submit in a timely manner the region's application for
18 federal and state transportation funds to the responsible federal
19 and state agencies. The application shall designate the
20 distribution of all capital and operating funds that are paid
21 directly to the authority, a city with a population of more than
22 750,000, SMART, and the other transit systems not included in a
23 city of more than 750,000 in population. Except as otherwise
24 provided in 1951 PA 51, MCL 247.651 to 247.675, and subject to
25 subsections (5) and (6), if the authority is the recipient of
26 federal or state funds, the chief executive officer of the
27 authority shall remit to a city with a population of more than

1 750,000, SMART, and the other transit systems not included in the
2 city of more than 750,000 in population their designated
3 distribution of those funds in a manner consistent with the
4 application.

5 (3) The authority shall develop, implement, and update a
6 comprehensive regional public transportation service plan for
7 providing public transit services in the region. The authority
8 shall present the initial comprehensive regional public
9 transportation service plan to the legislature, the governor, and
10 the state transportation department within 1 year after the
11 selection of the chief executive officer of the authority. In each
12 succeeding year, the authority shall update the comprehensive
13 regional public transportation service plan and present it to the
14 legislature, the governor, and the state transportation department.
15 The comprehensive regional public transportation service plan shall
16 contain all of the following:

17 (a) A specific plan for providing regional transportation for
18 senior citizens, citizens with disabilities, and citizens without
19 the economic means to provide their own personal transportation.

20 (b) A cost-benefit analysis of the necessity and effectiveness
21 of the proposed plan, including an average cost per mile of
22 services provided and an average cost per rider of services
23 provided.

24 (c) An economic impact analysis of the ratio of public dollars
25 expended on public transit services relative to the amount of
26 private dollars invested in the region as a result of public
27 transit services.

1 (d) A full accounting of all funding sources for the plan and,
2 if any new taxes or special assessments are called for, an analysis
3 of how much each individual taxpayer, participating local
4 municipality, and county will pay versus what they currently pay
5 for mass transit, and an analysis of how much of the tax or special
6 assessment will be returned to the individual taxpayer, local
7 municipality, and county in the form of public transit services.

8 (e) A discussion of how the plan provides for a fair
9 distribution of services throughout the region.

10 (f) A discussion of how the specific and identifiable public
11 transportation needs of the region are addressed in the plan.

12 (g) A discussion of how the plan delivers measurable benefits.

13 (4) Subject to the availability of funds, the authority shall
14 provide or contract to provide those services that are required for
15 the implementation and execution of the comprehensive regional
16 public transportation service plan. The authority may contract with
17 transportation operators within the region to provide services that
18 the authority considers necessary for implementation and execution
19 of the comprehensive regional public transportation service plan.

20 (5) This subsection does not apply to any private transit
21 entities that have not contracted with the authority. The authority
22 shall coordinate all of the following functions between different
23 owners and operators of public transportation facilities within the
24 region relative to transit services:

25 (a) Service overlap.

26 (b) Rates.

27 (c) Routing.

1 (d) Scheduling.

2 (e) Any other function that the authority considers necessary
3 to coordinate in order to implement or execute the comprehensive
4 regional transportation service plan.

5 (6) The authority shall provide notices of its coordination
6 decisions under this section to owners and operators of public
7 transportation facilities in the region. Any owner or operator of a
8 public transportation facility within the region who fails to
9 comply with the authority's notice of coordination decision may be
10 declared ineligible for grant assistance from the authority, and,
11 if the authority declares that the owner or operator is ineligible
12 for grant assistance, shall not receive any transportation
13 operating or capital assistance grants from the authority.

14 (7) To the extent possible, the authority shall facilitate and
15 encourage connections with other forms of transportation,
16 including, but not limited to, taxicabs.

17 (8) Within 1 year after the selection of the chief executive
18 officer of the authority, the authority shall present to the
19 legislature, the members of the appropriations committees of the
20 house of representatives and the senate, and the governor its
21 recommendations for legislation to fund the implementation of the
22 comprehensive regional public transportation service plan and for
23 legislation to establish a dedicated funding stream for the
24 authority. The recommendations for legislation shall include an
25 analysis of the availability of funding sources for the dedicated
26 funding stream and the information described in subsection (3).

27 Sec. 5. (1) Subject to subsections (3) and (8), between

1 October 1, 2006 and September 30, 2007, a county with a population
2 of 750,000 or less that chooses not to participate in the authority
3 may withdraw from the authority by a resolution of withdrawal that
4 is approved by 2/3 vote of the members of the county board of
5 commissioners.

6 (2) Subject to subsections (3) and (8), beginning October 1,
7 2007, a county with a population of 750,000 or less may withdraw at
8 any time by a resolution of withdrawal that is approved by a 2/3
9 vote of the members of the county board of commissioners.

10 (3) If the county seeking withdrawal under this section has an
11 elected county executive under 1966 PA 293, MCL 45.501 to 45.521,
12 or 1973 PA 139, MCL 45.551 to 45.573, the county executive may veto
13 the resolution. A veto may be overridden by a 3/4 vote of the
14 county board of commissioners from the county seeking to withdraw
15 from the authority.

16 (4) Subject to subsections (5) and (8), on January 1, 2010,
17 and on January 1 every 4 calendar years after 2010, a county that
18 does not contain a city with a population of more than 750,000 may
19 withdraw from the authority by meeting both of the following:

20 (a) Within 60 days, the county board of commissioners by
21 majority vote adopts a resolution to place the question of
22 withdrawing from the authority on the ballot of the next regularly
23 scheduled November general election in the county.

24 (b) A majority of the electorate approves of the question of
25 withdrawal from the authority at the next regularly scheduled
26 November general election.

27 (5) The question under subsection (4) shall be placed on the

1 ballot in each county that does not contain a city with a
2 population of more than 750,000 at the next November general
3 election after the effective date of this act.

4 (6) Subject to subsection (8), on the effective date of this
5 act, on January 1, 2010, and on January 1 every 3 calendar years
6 after 2010, a local governmental consortium may withdraw from the
7 authority by meeting both of the following:

8 (a) Within 60 days, the governing board of the local
9 governmental consortium by majority vote adopts a resolution to
10 place the question of withdrawing from the authority on the ballot
11 of the next regularly scheduled primary or general election in each
12 of the local governmental units in the local governmental
13 consortium.

14 (b) A majority of the electorate approves of the question of
15 withdrawal from the authority at the next regularly scheduled
16 primary or general election.

17 (7) A county or local governmental consortium that withdraws
18 from the authority shall lose its seat on the board and shall not,
19 except on the unanimous affirmative vote of the board, contract for
20 public transportation services with the authority.

21 (8) If a county or local governmental consortium elects to
22 withdraw from the authority under this section, both of the
23 following apply:

24 (a) The county or local governmental consortium shall pay or
25 make provision to pay all of its obligations to the authority.
26 Beginning 60 days after the withdrawing county or local
27 governmental consortium gives notice of its intent to withdraw, the

1 withdrawing county or local governmental consortium shall incur no
2 further obligation to the authority until the withdrawal has been
3 completed. Obligations of a transit system within the withdrawing
4 county or local governmental consortium owed directly to the
5 authority are not obligations of the county or local governmental
6 consortium for purposes of this subsection. After the county or
7 local governmental consortium has withdrawn from the authority, the
8 state transportation department shall reduce the level of state
9 funding to the authority by the amount allocable directly to the
10 withdrawing county or local governmental consortium and transmit
11 those funds directly to the withdrawing county or local
12 governmental consortium.

13 (b) Any transit system within the withdrawing county or local
14 governmental consortium shall pay or make provision to pay all of
15 its obligations to the authority. After the county or local
16 governmental consortium has withdrawn from the authority, the state
17 transportation department shall reduce the level of state funding
18 to the authority by the amount allocable directly to that transit
19 system and transmit those funds directly to that transit system.

20 Sec. 6. (1) A county may become a member of the authority if
21 all of the following are met:

22 (a) Any part of the county is not more than 90 miles from the
23 city limits of a city with a population of more than 750,000.

24 (b) The county is contiguous to another county that is a
25 member of the authority.

26 (c) A resolution is adopted by a majority vote of the county
27 board of commissioners of the county requesting membership.

1 (2) If the county seeking membership under this section has an
2 elected county executive under 1966 PA 293, MCL 45.501 to 45.521,
3 or 1973 PA 139, MCL 45.551 to 45.573, the county executive may veto
4 the resolution. The county board of commissioners for the county
5 seeking membership under this section may override the veto by a
6 2/3 vote of the county board of commissioners.

7 Sec. 7. (1) The authority shall be governed by a board that
8 shall consist of the following:

9 (a) Two members from each city in the region that has a
10 population over 750,000.

11 (b) Two members from each county in the region that has a
12 population over 750,000 and less than 1,750,000.

13 (c) One member from each county in the region that has a
14 population of 750,000 or less.

15 (d) Two members from each county in the region that has a
16 population over 1,750,000 so long as those members are not
17 residents of a city in that county that has a population over
18 750,000.

19 (e) One member and 1 alternate from each governmental
20 consortium, selected by a majority vote of its governing board. A
21 member or alternate described in this subdivision is a nonvoting
22 member of the board.

23 (2) The chief executive officer of each city that is entitled
24 to membership on the board shall select the members to represent
25 the city. The appointment of a board member shall require the
26 concurrence of a majority of the city council. The members that are
27 appointed and approved shall serve on the board at the pleasure of

1 the chief executive officer and can be removed from the board by
2 the chief executive officer at any time. A board member appointed
3 under this subsection shall be a resident of the city that the
4 board member represents.

5 (3) The chief executive officer of each county that is
6 entitled to membership on the board shall select the member or
7 members to represent the county. The appointment of a board member
8 shall require the concurrence of a majority of the county board of
9 commissioners. The members that are appointed and approved shall
10 serve on the board at the pleasure of the chief executive officer
11 and can be removed from the board by the chief executive officer at
12 any time. A board member appointed under this subsection shall be a
13 resident of the county that the board member represents.

14 (4) The first board shall be appointed within 30 days after
15 the effective date of this act.

16 (5) The board shall conduct its first meeting within 60 days
17 after the effective date of this act.

18 Sec. 8. (1) The board shall do all of the following:

19 (a) Select and retain a chief executive officer of the
20 authority.

21 (b) Adopt bylaws and rules and procedures governing the board
22 meetings.

23 (c) Establish policies to implement day-to-day operation of
24 the authority.

25 (d) Review and approve the authority's capital and operating
26 budgets to assure that the budgets are reported and administered in
27 accordance with the uniform budgeting and accounting act, 1968 PA

1 2, MCL 141.421 to 141.440a.

2 (e) As required by state or federal law to receive or disburse
3 funds to SMART or any transit system in the region, review, or
4 review and approve, the capital or operating budgets of SMART or
5 that transit system.

6 (f) Conduct an annual audit in accordance with the uniform
7 budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

8 (g) Adopt the comprehensive regional public transportation
9 service plan developed by the authority under section 4.

10 (h) Develop performance measures of the efficiency and
11 effectiveness of the provision of public transportation services to
12 the region.

13 (i) Develop and specify uniform data requirements to assess
14 the costs and benefits of public transportation services.

15 (j) Formulate procedures for establishing priorities in the
16 allocation of funds for public transportation services.

17 (k) Establish and implement a standardized reporting and
18 accounting system under which transit systems that receive funds
19 directly or indirectly from the authority make quarterly reports on
20 revenues and expenditures and submit annual and proposed budgets to
21 the authority.

22 (l) Establish and implement standards relating to operating
23 efficiency and cost control of transit systems.

24 (m) Establish public transportation policy for the region.

25 (2) Except as otherwise provided in this subsection, the board
26 shall act by a majority vote of its membership that is entitled to
27 vote. A vote for the adoption of bylaws, for the adoption of rules

1 of procedure, or for the transaction of business shall not be
2 effective unless the vote includes at least 1 affirmative vote from
3 a member that represents each city in the authority that has a
4 population of 750,000 or more and at least 1 affirmative vote from
5 each county in the authority immediately contiguous to each city in
6 the authority with a population of 750,000 or more.

7 (3) The board shall meet regularly but not less than
8 quarterly.

9 (4) Except as provided in this subsection, a board member
10 shall not designate another representative to serve in his or her
11 place on the board. Each county and city entitled to membership on
12 the board in the region shall have the ability to appoint 1
13 alternate to serve if a permanent member is absent from a board
14 meeting. The board shall not engage in proxy voting.

15 (5) The board shall conduct the business that it may perform
16 at meetings held in compliance with the open meetings act, 1976 PA
17 267, MCL 15.261 to 15.275. Public notice of the time, date, and
18 place of the meetings shall be given in the manner required by the
19 open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

20 (6) The board shall appoint a citizens advisory committee that
21 consists of region residents. Forty percent of the committee shall
22 be made up of users of public transportation. At least 25% of the
23 users of public transportation on the committee shall be seniors or
24 persons with disabilities. Two users of public transportation from
25 Wayne county, 2 users of public transportation from Oakland county,
26 2 users of public transportation from Macomb county, 2 users of
27 public transportation from each city in the authority region that

1 has a population of 750,000 or more, and 1 user of public
2 transportation from each additional member county shall be on the
3 committee. Thirty percent of the committee shall be made up of
4 individuals from organizations representing seniors and persons
5 with disabilities. Thirty percent of the committee shall be made up
6 of individuals representing business, labor, community, and faith-
7 based organizations. The citizens advisory committee shall meet at
8 least on a quarterly basis. The citizens advisory committee may
9 make reports to the board, including recommendations, if any, at
10 each board meeting. The citizens advisory committee shall do all of
11 the following:

12 (a) Review and comment on the comprehensive regional public
13 transportation service plan and all annual updates.

14 (b) Advise the board regarding the coordination of functions
15 between different owners and operators of public transportation
16 facilities within the region.

17 (c) Review and comment on the specialized services
18 coordination plan required by section 10e(4)(c)(i)(A) of 1951 PA 51,
19 MCL 247.660e.

20 (d) Provide recommendations on other matters that concern
21 public transportation in the region.

22 (7) The board shall establish a ridership committee that
23 consists of a representative group of transit system riders who
24 live in the region. The ridership committee shall report their
25 concerns to the board on a regularly scheduled basis.

26 (8) The board may change the name of the authority by a
27 unanimous vote of the members. The board shall notify the state

1 transportation department within 10 days after a name change is
2 implemented.

3 (9) The authority may give assistance to transit systems that
4 are operated within the region by any city or public agency.

5 (10) The board shall employ an independent certified public
6 accounting firm to provide annual financial audits for the
7 authority and to review the audits of SMART and other operators of
8 transit systems that receive funds directly or indirectly from the
9 authority. The cost associated with the audits and reviews required
10 under this subsection shall be the responsibility of the operator
11 of the transit system being audited.

12 (11) The board may elect to become a participating
13 municipality on behalf of all authority employees, including
14 acquired employees under section 17, but only under section 2c(2)
15 of the municipal employees retirement act of 1984, 1984 PA 427, MCL
16 38.1502c.

17 Sec. 9. The authority may:

18 (a) Adopt rules to accomplish the purposes of this act.

19 (b) Plan, acquire, construct, operate, maintain, replace,
20 improve, extend, and contract for transportation facilities within
21 the region. If there is no transit system established or operating
22 public transportation facilities within 10 miles beyond any portion
23 of the region, the authority shall have the powers stated in this
24 subdivision for 10 miles beyond that portion of the region.

25 (c) Acquire and hold, by purchase, lease, grant, gift, devise,
26 bequest, condemnation, or other legal means, real and personal
27 property, including, but not limited to, franchises, easements, and

1 rights-of-way on, under, or above property within the region. If
2 there is no transit system established and operating public
3 transportation facilities within 10 miles beyond any portion of the
4 region, the authority shall have the powers enumerated in this
5 subdivision for 10 miles beyond that portion of the region.

6 (d) Apply for and accept grants, loans, or contributions from
7 any source. The authority shall use the proceeds of the grants,
8 loans, or contributions solely for the purposes of this act. The
9 authority may do anything within its power to secure the grants,
10 loans, or other contributions.

11 (e) Sell, lease, or use any property that the authority
12 acquires. For purposes of this subdivision, "use" includes, but is
13 not limited to, the leasing of advertising space and the granting
14 of concessions for the sale of articles or for services.

15 (f) Grant to public or privately owned utilities the right to
16 use any property that the authority has acquired.

17 (g) Grant to any other public transportation facility the
18 right to use the property that the authority has acquired.

19 (h) Contract with, or enter into agreements with, any unit of
20 government including transportation authorities or transit systems
21 located inside or outside the region or private enterprise for
22 service contracts, joint use contracts, and contracts for the
23 construction or operation of any part of the transportation
24 facilities or for any other reason the authority determines is
25 necessary.

26 (i) Borrow money to finance and perform its powers and duties.

27 (j) Receive the proceeds of taxes, special assessments, and

1 charges imposed, collected, and returned to the authority under the
2 law.

3 (k) Exercise all other powers that are necessary, incidental,
4 or convenient for the carrying out of the purposes of this article.

5 Sec. 10. (1) The authority shall fix rates, fares, tolls,
6 rents, and other charges for the use of public transportation
7 facilities and the services provided by the authority within the
8 region that the authority owns, has contracted for, or operates.

9 (2) The authority shall give a public notice of its intent to
10 apply for money from the comprehensive transportation fund to the
11 residents of the counties, cities, townships, and villages affected
12 by the local transportation program. The authority shall make the
13 application available for review for 30 days by the residents of
14 the affected counties, cities, townships, and villages. All public
15 comments that the authority receives under this subsection shall be
16 included in its application for comprehensive transportation funds
17 and transmitted to the board and the state transportation
18 department.

19 (3) The authority shall hold a public meeting annually on the
20 comprehensive regional transportation service plan and all plan
21 updates. The public meeting shall be held before the adoption of
22 the plan or update by the board. A summary of the comments made at
23 the public meeting shall be provided to the board.

24 (4) The authority shall conduct a public hearing before the
25 implementation of changes to the fares charged for authority
26 services. A transcript of the public hearing shall be transmitted
27 to the board before consideration of proposed fare changes.

1 Sec. 11. Before any state or federal funds are distributed to
2 the authority, a financial audit of the operations for the fiscal
3 year before the most recently completed fiscal year shall be
4 provided to the department of treasury. The department of treasury
5 may waive this requirement on a temporary basis. Each audit shall
6 be conducted in accordance with sections 6 to 13 of the uniform
7 budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433.

8 Sec. 12. (1) This state guarantees the payment of claims for
9 benefits arising under the worker's disability compensation act of
10 1969, 1969 PA 317, MCL 418.101 to 418.941, during the time the
11 authority is approved as a self-insured employer if all of the
12 following occur:

13 (a) The authority ceases to exist or is dissolved.

14 (b) A successor agency is not created to assume the assets and
15 liabilities and perform the functions of the authority.

16 (c) The authority is authorized to secure the payment of
17 compensation under section 611(1)(a) of the worker's disability
18 compensation act of 1969, 1969 PA 317, MCL 418.611.

19 (2) This state shall be entitled to a lien that shall take
20 precedence over all other liens in the amount of all the payment of
21 claims made by this state on behalf of the authority under this
22 section. The lien shall be on the assets of the authority.

23 Sec. 13. A community or group of communities in the region may
24 create citizen advisory councils to relate concerns to the board on
25 a regularly scheduled basis. Citizen advisory councils shall be
26 composed of members representative of the neighborhoods within the
27 community or group of communities.

1 Sec. 14. The authority created under this act shall not be
2 dissolved and its powers shall not be diminished except as provided
3 in this act.

4 Sec. 15. In the exercise of its powers within the region, the
5 authority is exempt from all of the following acts:

6 (a) The motor carrier act, 1933 PA 254, MCL 475.1 to 479.43.

7 (b) The motor bus transportation act, 1982 PA 432, MCL 474.101
8 to 474.141.

9 (c) The township and village public improvement and public
10 service act, 1923 PA 116, MCL 41.411 to 41.419.

11 Sec. 16. (1) By March 20, 2007, the board shall select and
12 retain a chief executive officer.

13 (2) The chief executive officer shall administer the authority
14 in accordance with the comprehensive regional public transportation
15 service plan, the operating budget, the general policy guidelines
16 established by the board, the applicable governmental procedures
17 and policies, and this act. The chief executive officer is
18 responsible for the supervision of all authority employees.

19 (3) All terms and conditions of the chief executive officer's
20 employment, including length of service, shall be specified in a
21 written contract.

22 Sec. 17. (1) The authority shall have the right to bargain
23 collectively and enter into agreements with labor organizations.

24 (2) The authority shall be bound by existing collective
25 bargaining agreements with publicly or privately owned entities
26 that are acquired, purchased, or condemned by the authority.
27 Members and beneficiaries of any pension or retirement system

1 established by the acquired transportation system, and
2 beneficiaries of any of the benefits established by the acquired
3 transportation system shall continue to have rights, privileges,
4 benefits, obligations, and status under the acquired pension or
5 retirement system or benefits. The authority shall assume the
6 obligations of public transportation facilities or transit systems
7 that the authority acquires with regard to all of the following:

8 (a) Wages and salaries.

9 (b) Hours and working conditions.

10 (c) Sick leave and health and welfare benefits.

11 (d) Pension or retirement benefits, including retiree health
12 care benefits.

13 (3) No employee of an acquired transportation system who is
14 transferred to a position with the authority shall, by reason of
15 the transfer, be placed in a worse position with respect to any of
16 the following:

17 (a) Worker's compensation.

18 (b) Pension.

19 (c) Seniority.

20 (d) Wages.

21 (e) Sick leave.

22 (f) Vacation.

23 (g) Health and welfare benefits.

24 (h) Any other benefits that he or she enjoyed as an employee
25 of the acquired transportation system.

26 (4) Employees of the acquired transportation system who left
27 the acquired transportation system to enter into military service

1 of the United States shall have the same rights with respect to the
2 authority under 1951 PA 263, MCL 35.351 to 35.356, as they would
3 have had as employees of the acquired transportation system.

4 (5) For federally funded activities, the authority shall enter
5 into and comply with the arrangements that the U.S. secretary of
6 labor certifies as fair and equitable in compliance with 49 USC
7 5333(b).

8 (6) Before beginning to operate any new transit service or
9 public transportation facility or entering into any contract or
10 other arrangements for the operations of the transit service or
11 public transportation facility, the authority shall extend to the
12 employees providing public transportation services directly for or
13 by contract with the authority, in order of the employee's
14 seniority with the employee's employer, the first opportunity for
15 reasonably comparable employment in any new jobs with respect to
16 the operations for which the employee can qualify after a
17 reasonable training period. The authority shall provide for the
18 first opportunity required under this subsection in any contract to
19 operate a new transit service or public transportation facility.
20 Employers shall comply with all collective bargaining agreements in
21 accordance with the national labor relations act, 49 Stat. 449, and
22 1947 PA 336, MCL 423.201 to 423.217.

23 Sec. 18. (1) The authority shall not levy taxes. Except as
24 otherwise provided in this section, the authority shall not pledge
25 the credit or taxing power of the state or any political
26 subdivision. The authority may pledge the receipts of taxes,
27 special assessments, or charges that the state or a political

1 subdivision collects so long as the receipts of the taxes, special
2 assessments, or charges are returnable and payable by law or
3 contract to the authority. The authority may pledge the pledge of a
4 political subdivision of this state of its full faith and credit in
5 support of its contractual obligations to the authority.

6 (2) In addition to any other method of financing authorized by
7 law, public transportation facilities may be financed by 1 or more
8 of the following:

9 (a) Fares, rates, tolls, and rents.

10 (b) Other income or revenue from whatever source available,
11 including, but not limited to, appropriations and contributions and
12 other revenue of the participating counties and political
13 subdivisions in the region.

14 (c) Grants, loans, and contributions from federal, state, or
15 other governmental units.

16 (d) Grants, contributions, gifts, devises, or bequests from
17 any other source.

18 (e) Taxes, special assessments, or charges that are imposed by
19 law and collected by a state or political subdivision and returned
20 or paid to the authority under the law or pursuant to contract.

21 Sec. 19. (1) The chief executive officer shall prepare and the
22 board shall approve an operating budget and a capital budget for
23 the authority for each fiscal year. Each budget shall be approved
24 by the February 1 immediately preceding the beginning of the fiscal
25 year of the authority.

26 (2) The chief executive officer shall prepare and the board
27 shall approve a capital program and an operating budget to cover 5

1 years. The first capital program and operating budgets shall be
2 submitted to the board within 270 days after selection of the chief
3 executive officer of the authority. The chief executive officer
4 shall revise and update the capital program and operating budgets
5 on an annual basis and submit the revised capital program and
6 operating budgets to the board each fiscal year.

7 (3) The authority shall submit its annual operating and
8 capital budget, financial audits, and construction plans to a
9 regional governmental and coordinating agency if a regional
10 governmental and coordinating agency exists in the region. The
11 submittal shall allow a reasonable time for review and comment.

12 Sec. 20. (1) Except as otherwise provided in this section and
13 section 21, competitive bids shall be secured before any purchase
14 or sale, by contract or otherwise, is made or before any contract
15 is awarded, or before any contract is renewed, for construction,
16 alteration, supplies, equipment, repairs, maintenance, and the
17 rendering of services to the authority.

18 (2) Except as otherwise provided in this section, all
19 purchases and sales in excess of \$50,000.00 shall be awarded after
20 advertising in a manner determined by the board and set forth in a
21 written purchasing policy. Bids shall be publicly opened and read
22 aloud at a date, time, and place designated in the invitation to
23 bid. Invitations to bid shall be sent at least 1 week before the
24 bid opening to at least 3 potential bidders who are qualified
25 technically and financially to submit bids, or a memorandum shall
26 be kept on file showing that less than 3 potential bidders who are
27 qualified and responsible exist in the general market area within

1 which it is practicable to obtain quotations.

2 (3) Except as otherwise provided in this section, written
3 price quotations from at least 3 qualified and responsible vendors
4 shall be obtained for all purchases and sales of \$50,000.00 or less
5 but greater than \$5,000.00, or a memorandum shall be kept on file
6 showing that less than 3 qualified and responsible vendors exist in
7 the market area within which it is practicable to obtain
8 quotations.

9 (4) Competitive bidding is not required in 1 or more of the
10 following circumstances:

11 (a) The purchase of unique articles.

12 (b) The purchase of articles that cannot be obtained in the
13 open market.

14 (c) Purchases or sales under \$5,000.00.

15 (d) The rendering of professional services.

16 (e) An emergency exists that directly and immediately affects
17 service or public health, safety, or welfare and that requires
18 immediate delivery of supplies, materials, equipment, or services
19 as determined under procedures approved and determined by the
20 board.

21 (5) The board shall expressly approve or deny in advance the
22 purchase of unique articles or articles that cannot be obtained in
23 the open market without competitive bidding if the amount of the
24 purchase in either case is in excess of \$50,000.00.

25 Sec. 21. Concessions for the sale of products or the rendition
26 of services for a consideration on authority property, and renewal
27 of any of those concessions, shall be awarded by the authority only

1 pursuant to written specifications after competitive bidding to the
2 highest responsible bidder under procedures similar to those
3 required under section 20. The requirement for competitive bidding
4 does not apply to a concession involving the estimated receipt by
5 the authority of less than \$1,000.00 over the period for which the
6 concession is granted.

7 Sec. 22. (1) The authority may acquire facilities, assets, and
8 rights of existing and operating private or public transportation
9 systems. Except as provided in section 17, no liability, other than
10 for equipment and facilities, shall be assumed or contracted for.
11 Except as otherwise provided in this subsection, the authority
12 shall not be required to comply with any statutory or charter
13 limitations or prerequisites to an acquisition.

14 (2) If the contract between the authority and the existing and
15 operating private or public transportation system provides only for
16 operation of the existing system by the authority or only for
17 acquisition without consideration, the transaction is not
18 considered a sale of a public utility within any constitutional,
19 statutory, or charter limitation or within any revenue bond
20 ordinance.

21 (3) If the negotiation between the authority and an existing
22 private or public transportation system does not reach a
23 conclusion, the authority shall notify the owner of the existing
24 private or public transportation system in writing that the matter
25 shall proceed to binding final arbitration under the rules and
26 procedures of the American arbitration association.

27 Sec. 23. Except as otherwise provided in this section, claims

1 that arise in connection with the authority shall be presented as
2 ordinary claims against a common carrier of passengers for hire.
3 Written notice of any claim based on injury to persons or property
4 shall be served on the authority not later than 60 days after the
5 occurrence that gave rise to the claim. The disposition of the
6 claim shall rest in the discretion of the authority. Claims that
7 may be allowed and final judgment shall be paid from authority
8 funds. Claims against the authority shall only be brought in a
9 court of competent jurisdiction in a county in the region in which
10 the authority principally carries on its functions.

11 Sec. 24. All counties and other political subdivisions and
12 agencies, public or private, may assist, cooperate with, and
13 contribute services, money, or property in aid of the authority and
14 its purposes.

15 Sec. 25. The property of the authority and its income and
16 operations are exempt from all taxes of this state or a political
17 subdivision of this state, and the property of the authority is
18 exempt from local zoning.

19 Sec. 26. Records and other writings prepared, owned, used, in
20 the possession of, or retained by the authority in the performance
21 of an official function shall be available to the public during
22 normal business hours in compliance with the freedom of information
23 act, 1976 PA 442, MCL 15.231 to 15.246.

24 Sec. 27. Notwithstanding any other provision of this act, if
25 an emergency financial manager has been appointed for the authority
26 under the local government fiscal responsibility act, 1990 PA 72,
27 MCL 141.1201 to 141.1291, then that emergency financial manager may

1 exercise the authority and responsibilities provided in this act to
2 the extent authorized by the local government fiscal responsibility
3 act, 1990 PA 72, MCL 141.1201 to 141.1291.

4 Sec. 28. The authority shall prepare and publish a detailed
5 public report and financial statement of its operations at the end
6 of each fiscal year.

7 Sec. 29. The fiscal year of the authority shall commence
8 October 1 and continue through September 30.

9 ARTICLE III

10 Sec. 30. (1) Beginning October 1, 2006, SMART, established in
11 the metropolitan transportation authorities act of 1967, 1967 PA
12 204, MCL 124.401 to 124.426, is continued under this article. The
13 chief executive officer of SMART and SMART board serving under that
14 act on October 1, 2006, shall continue as the first chief executive
15 officer of SMART and SMART board under this article. The members of
16 SMART are Oakland, Wayne, Monroe, and Macomb counties.

17 (2) Subject to subsections (3) and (4), a county with a
18 population of 750,000 or less that chooses not to participate in
19 SMART may withdraw from SMART by a resolution of withdrawal that is
20 approved by a 2/3 vote of the members of the county board of
21 commissioners.

22 (3) If the county seeking withdrawal under this section has an
23 elected county executive under 1966 PA 293, MCL 45.501 to 45.521,
24 or 1973 PA 139, MCL 45.551 to 45.573, the county executive may veto
25 the resolution. A veto may be overridden by a 3/4 vote of the
26 county board of commissioners from the county seeking to withdraw
27 from SMART.

1 (4) A county that withdraws from SMART shall lose its seat on
2 the SMART board and shall not, except on the unanimous affirmative
3 vote of the SMART board, contract for public transportation
4 services with SMART.

5 (5) SMART is an agency and instrumentality of the state and
6 except as provided in this article has all of the powers of a
7 public corporation if exercised for 1 or more of the following
8 purposes:

- 9 (a) Planning public transportation facilities.
10 (b) Designing public transportation facilities.
11 (c) Constructing public transportation facilities.
12 (d) Operating public transportation facilities.
13 (e) Administering public transportation facilities.
14 (f) Acquiring public transportation facilities.
15 (g) Contracting to provide public transportation facilities.
16 (h) Maintaining, replacing, improving, and extending public
17 transportation facilities.
18 (i) Exercising the powers of a public transportation facility.
19 (6) If SMART ceases to operate or is dissolved and a successor
20 agency is not created to assume its assets and liabilities, and
21 perform its functions, and if SMART is authorized to secure the
22 payment of compensation under section 611(1)(a) of the worker's
23 disability compensation act of 1969, 1969 PA 317, MCL 418.611, then
24 the state guarantees the payment of claims for benefits arising
25 under the worker's disability compensation act of 1969, 1969 PA
26 317, MCL 418.101 to 418.941, against SMART during the time they
27 were approved as a self-insured employer. The state shall be

1 entitled to a lien which shall take precedence over all other liens
2 on its portion of the assets of SMART in satisfaction of the
3 payment of claims for benefits under the worker's disability
4 compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

5 (7) A community or group of communities in the SMART region
6 may create citizens planning and advisory councils to relate their
7 particular concerns to the SMART board on a regularly scheduled
8 basis. These councils shall have memberships representative of the
9 various neighborhoods within those cities.

10 Sec. 32. (1) The SMART board shall be composed of the chief
11 executive officers of each county in which a city having a
12 population of 750,000 or more is located within the area served by
13 SMART and of all other counties immediately contiguous to that
14 city, and the representative of each chief executive officer to be
15 designated in the sole discretion of, and serve at the sole
16 pleasure of, that chief executive officer. Every county with a
17 population of less than 750,000 that is served by SMART shall have
18 1 seat on the SMART board. A chief executive officer may designate
19 an alternate to serve in his or her place on the SMART board.

20 (2) The SMART board by a majority vote shall adopt bylaws and
21 rules of procedure governing its meetings. A majority vote for the
22 adoption of bylaws and rules of procedure and for the transaction
23 of business shall not be effective unless it includes at least 1
24 vote from each county in which a city having a population of
25 750,000 or more is located, and at least 1 vote from each county
26 immediately contiguous to that city.

27 (3) The business of the SMART board shall be conducted at a

1 public meeting of the board held in compliance with the open
2 meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of
3 the time, date, and place of the meeting shall be given in the
4 manner required by the open meetings act, 1976 PA 267, MCL 15.261
5 to 15.275.

6 (4) Records and other writings prepared, owned, used, in the
7 possession of, or retained by SMART in the performance of an
8 official function shall be available in compliance with the freedom
9 of information act, 1976 PA 442, MCL 15.231 to 15.246.

10 (5) SMART may do any of the following:

11 (a) Adopt rules to accomplish the purposes of this act.

12 (b) Plan, acquire, construct, operate, maintain, replace,
13 improve, extend, and contract for transportation facilities within
14 the SMART region. If there is no authority or transit system
15 established or operating public transportation facilities within 10
16 miles beyond any portion of the SMART region, SMART shall have the
17 powers stated in this subdivision for 10 miles beyond that portion
18 of the SMART region.

19 (c) Acquire and hold, by purchase, lease, grant, gift, devise,
20 bequest, condemnation, or other legal means, real and personal
21 property, including, but not limited to, franchises, easements, and
22 rights-of-way on, under, or above property within the SMART region.
23 If there is no authority or transit system established and
24 operating public transportation facilities within 10 miles beyond
25 any portion of the SMART region, SMART shall have the powers
26 enumerated in this subdivision for 10 miles beyond that portion of
27 the SMART region.

1 (d) Apply for and accept grants, loans, or contributions from
2 any source. SMART may use the proceeds of the grants, loans, or
3 contributions for any of the purposes of this act. SMART may do
4 anything within its power to secure the grants, loans, or other
5 contributions.

6 (e) Sell, lease, or use any property that SMART acquires. For
7 purposes of this subdivision, "use" includes, but is not limited
8 to, the leasing of advertising space and the granting of
9 concessions for the sale of articles or for services.

10 (f) Grant to public or privately owned utilities the right to
11 use any property that SMART has acquired.

12 (g) Grant to any other public transportation facility the
13 right to use the property that SMART has acquired.

14 (h) Contract with any unit of government or private enterprise
15 for service contracts, joint use contracts, and contracts for the
16 construction or operation of any part of the transportation
17 facilities.

18 (i) Receive the proceeds of taxes, special assessments, and
19 charges imposed, collected, and returned to SMART under the law.

20 (j) Elect to become a participating municipality for acquired
21 employees under section 34, under section 2c(2) of the municipal
22 employees retirement act of 1984, 1984 PA 427, MCL 38.1502c.

23 (k) Exercise all other powers that are necessary, incidental,
24 or convenient for the carrying out of the purposes of this article.

25 (6) SMART shall not spend any public funds on political
26 activities.

27 (7) SMART shall take all reasonable measures to provide

1 regional transportation for senior citizens, citizens with
2 disabilities, and citizens without the economic means to provide
3 their own personal transportation. SMART shall take all reasonable
4 measures to see that regional transportation services for those
5 citizens are the first services provided by SMART and that regional
6 transportation services for those citizens are the last services
7 reduced by SMART if SMART reduces services.

8 (8) SMART may provide adequate transportation services to
9 citizens other than senior citizens, citizens with disabilities, or
10 citizens without the economic means to provide their own personal
11 transportation only to the extent it does not impair or preclude
12 SMART's obligations under subsection (7).

13 Sec. 33. The SMART board shall do all of the following:

14 (a) Adopt bylaws and rules and procedures governing the SMART
15 board meetings.

16 (b) Establish or continue broad policies to implement day-to-
17 day operation of SMART.

18 (c) Review and approve the capital and operating budgets of
19 SMART to assure that the budgets are reported and administered in
20 accordance with the uniform budgeting and accounting act, 1968 PA
21 2, MCL 141.421 to 141.440a.

22 (d) Conduct an annual audit in accordance with the uniform
23 budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

24 (e) Employ a general manager of SMART.

25 Sec. 34. (1) The SMART board shall appoint a general manager
26 who shall be the chief executive and operating officer of SMART.
27 The general manager shall have management of the properties and

1 business of SMART and its employees. He or she shall direct the
2 enforcement of all resolutions, rules, and regulations of the SMART
3 board, and shall enter into contracts as necessary under the
4 general control of the SMART board. The general manager shall serve
5 at the pleasure of the SMART board.

6 (2) The general manager shall have the authority to appoint
7 officers, employees, and agents necessary to carry out the purposes
8 of SMART under the general policy direction of the SMART board. The
9 general manager shall classify all the offices, positions, and
10 grades of regular employment required under a merit rating system;
11 except that a maximum of 5% of the employees and officers shall be
12 exempt from the provisions of the merit rating system.

13 Sec. 35. (1) The general manager shall prepare and the SMART
14 board shall approve a separate operating and capital budget for
15 each fiscal year. These budgets shall be approved at least 30 days
16 before the beginning of each new fiscal year. In addition, capital
17 program and operating budgets shall be prepared to cover periods of
18 5 years. These shall be revised and updated annually before
19 submission to the SMART board.

20 (2) SMART shall submit its annual operating and capital
21 budget, financial audits, and construction plans to the authority,
22 far enough in advance of any final approval requirement for the
23 board to have a reasonable time for review, comments, and revision.

24 Sec. 36. SMART may not levy taxes nor may it pledge the credit
25 or taxing power of the state or any political subdivision except
26 for the pledging of receipts of taxes, special assessments, or
27 charges collected by the state or a political subdivision and

1 returnable or payable by law or by contract to SMART and except for
2 the pledge by a political subdivision of the state of its full
3 faith and credit in support of its contractual obligations to SMART
4 as authorized by law. Transportation facilities shall be financed,
5 in addition to other methods of financing provided by law, by 1 or
6 more of the following methods:

7 (a) By fares, rates, tolls, and rents.

8 (b) By other income or revenues from whatever source
9 available, including appropriations or contributions of whatever
10 nature or other revenues of the participating counties and
11 political subdivisions within the geographical boundaries of SMART.

12 (c) By loans from any public agency and grants, contributions,
13 gifts, devises, or bequests from any source.

14 (d) By proceeds of taxes, special assessments, or charges
15 imposed pursuant to law and collected by the state or a political
16 subdivision and returned or paid to SMART pursuant to law or
17 contract.

18 Sec. 37. All claims that may arise in connection with SMART
19 shall be presented as ordinary claims against a common carrier of
20 passengers for hire. Written notice of any claim based upon injury
21 to persons or property shall be served upon SMART no later than 60
22 days from the occurrence through which such injury is sustained.
23 Disposition of the claim shall rest in the discretion of SMART, and
24 all claims that may be allowed and final judgment obtained shall be
25 paid from SMART funds. Only the courts located in the counties in
26 which SMART principally carries on its function are the proper
27 counties in which to commence and try action against SMART.

1 Sec. 38. (1) SMART may fix rates, fares, tolls, rents, and
2 other charges for the use of public transportation facilities and
3 the services provided by SMART within the SMART region.

4 (2) SMART shall give a public notice of its intent to apply
5 for money from the comprehensive transportation fund to the
6 residents of the counties, townships, villages, and cities affected
7 by the local transportation program and shall make its application
8 available for a period of 30 days. All comments received by SMART
9 shall be transmitted to the board, the SMART board, and the state
10 transportation department along with the application for funds.

11 (3) SMART shall conduct a public hearing before the SMART
12 board implements changes to the fares charged for the services
13 provided by SMART. A transcript of the public hearing shall be
14 transmitted to the SMART board before the consideration of the fare
15 changes.

16 Sec. 39. (1) SMART may borrow money and issue bonds to finance
17 and to carry out its powers and duties. The bonds shall be payable
18 from and may be issued in anticipation of payment of the proceeds
19 of any of the methods of financing as may be provided by law. A
20 political subdivision within the geographical boundaries of SMART
21 may contract to make payments, appropriations, or contributions to
22 SMART of the proceeds of taxes, special assessments, or charges
23 imposed and collected by the political subdivision or out of any
24 other funds legally available and may pledge its full faith and
25 credit in support of its contractual obligation to SMART. The
26 contractual obligation shall not constitute an indebtedness of a
27 political subdivision within a statutory or charter debt

1 limitation. If SMART has issued bonds in anticipation of payments,
2 appropriations, or contributions to be made to SMART pursuant to
3 contract by a political subdivision having the power to levy and
4 collect ad valorem taxes, the political subdivision may obligate
5 itself by the contract, and thereupon may levy a tax on all taxable
6 property in the political subdivision, which tax as to rate or
7 amount will be as provided in section 6 of article IX of the state
8 constitution of 1963 for contract obligations in anticipation of
9 which bonds are issued, to provide sufficient money to fulfill its
10 contractual obligation to SMART.

11 (2) The bonds of SMART shall be issued and sold in compliance
12 with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to
13 141.2821, except that the bonds may be issued for any period of
14 years, not exceeding 40 years.

15 (3) A political subdivision may advance or deliver property to
16 SMART to finance or carry out its powers and duties. SMART may
17 agree to repay the advances or pay for the property within a period
18 not exceeding 10 years, from the proceeds of its bonds or from
19 other funds legally available to SMART, with or without interest as
20 may be agreed to at the time of advance or repayment. The
21 obligation of SMART to make the payment or repayment may be
22 evidenced by a contract or note that may pledge the full faith and
23 credit of SMART. The contract or note that is evidence of SMART's
24 obligation shall not be an obligation under the revised municipal
25 finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

26 (4) A political subdivision desiring to enter into a contract
27 under subsection (1) shall authorize, by resolution of its

governing body, the execution of the contract, which resolution shall be published in a newspaper of general circulation within the political subdivision, and the contract may be executed without a vote of the electors on the contract upon the expiration of 90 days after the date of the publication unless, within the 90-day period, a petition signed by not less than 5% of the registered electors residing within the limits of the political subdivision is filed with the clerk of the political subdivision requesting a referendum upon the execution of the contract, and in that event the contract shall not be executed until approved by the vote of a majority of the electors of the political subdivision qualified to vote and voting on the contract at a general or special election to be held not more than 90 days after the filing of the petition.

(5) If the bonds or notes sold by SMART involve the pledge or use of state collected or administered funds, SMART shall seek the approval of the board and the state transportation commission.

(6) Notwithstanding any other provision of this section, SMART shall not issue bonds, nor use the revenues of the sale of bonds, for the construction, reconstruction, maintenance, or operation of a subway unless approved by concurrent resolution by the legislature.

Sec. 40. In the exercise of its powers within the SMART region, SMART is exempt from all of the following acts:

(a) The motor carrier act, 1933 PA 254, MCL 475.1 to 479.43.

(b) The motor bus transportation act, 1982 PA 432, MCL 474.101 to 474.141.

(c) The township and village public improvement and public

1 service act, 1923 PA 116, MCL 41.411 to 41.419.

2 Sec. 41. (1) SMART shall have the right to bargain
3 collectively and enter into agreements with labor organizations.

4 (2) SMART shall be bound by existing collective bargaining
5 agreements with publicly or privately owned entities that are
6 acquired, purchased, or condemned by SMART. Members and
7 beneficiaries of any pension or retirement system established by
8 the acquired transportation system, and beneficiaries of any of the
9 benefits established by the acquired transportation system shall
10 continue to have rights, privileges, benefits, obligations, and
11 status under the acquired pension or retirement system or benefits.
12 SMART shall assume the obligations of public transportation
13 facilities or transit systems that SMART acquires with regard to
14 all of the following:

15 (a) Wages and salaries.

16 (b) Hours and working conditions.

17 (c) Sick leave and health and welfare benefits.

18 (d) Pension or retirement benefits, including retiree health
19 care benefits.

20 (3) No employee of an acquired transportation system who is
21 transferred to a position with SMART shall, by reason of the
22 transfer, be placed in a worse position with respect to any of the
23 following:

24 (a) Worker's compensation.

25 (b) Pension.

26 (c) Seniority.

27 (d) Wages.

1 (e) Sick leave.

2 (f) Vacation.

3 (g) Health and welfare benefits.

4 (h) Any other benefits that he or she enjoyed as an employee
5 of the acquired transportation system.

6 (4) Employees of the acquired transportation system who left
7 the acquired transportation system to enter into military service
8 of the United States shall have the same rights with respect to
9 SMART under 1951 PA 263, MCL 35.351 to 35.356, as they would have
10 had as employees of the acquired transportation system.

11 (5) For federally funded activities, SMART shall enter into
12 and comply with the arrangements that the U.S. secretary of labor
13 certifies as fair and equitable in compliance with 49 USC 5333(b).

14 (6) Before beginning to operate any new transit service public
15 transportation facility or entering into any contract or other
16 arrangements for the operations of the transit service or public
17 transportation facility, the authority shall extend to the
18 employees providing public transportation services directly for or
19 by contract with the SMART, in order of the employee's seniority
20 with the employee's employer, the first opportunity for reasonably
21 comparable employment in any new jobs with respect to the
22 operations for which the employee can qualify after a reasonable
23 training period. SMART shall provide for the first opportunity
24 required under this subsection in any contract to operate a new
25 transit service or public transportation facility. Employers shall
26 comply with all collective bargaining agreements in accordance with
27 the national labor relations act, 49 Stat. 449, and 1947 PA 336,

1 MCL 423.201 to 423.217.

2 Sec. 42. (1) Except as otherwise provided in this section and
3 section 43, competitive bids shall be secured before any purchase
4 or sale, by contract or otherwise, is made or before any contract
5 is awarded for construction, alteration, supplies, equipment,
6 repairs, maintenance, and the rendering of services to SMART.

7 (2) Except as otherwise provided in this section, all
8 purchases and sales in excess of \$50,000.00 shall be awarded after
9 advertising in a manner determined by the SMART board and set forth
10 in a written purchasing policy. Bids shall be publicly opened and
11 read aloud at a date, time, and place designated in the invitation
12 to bid. Invitations to bid shall be sent at least 1 week before the
13 bid opening to at least 3 potential bidders who are qualified
14 technically and financially to submit bids, or a memorandum shall
15 be kept on file showing that less than 3 potential bidders who are
16 qualified and responsible exist in the general market area within
17 which it is practicable to obtain quotations.

18 (3) Except as otherwise provided in this section, written
19 price quotations from at least 3 qualified and responsible vendors
20 shall be obtained for all purchases and sales of \$50,000.00 or less
21 but greater than \$5,000.00, or a memorandum shall be kept on file
22 showing that less than 3 qualified and responsible vendors exist in
23 the market area within which it is practicable to obtain
24 quotations.

25 (4) Competitive bidding is not required in 1 or more of the
26 following circumstances:

27 (a) The purchase of unique articles.

1 (b) The purchase of articles that cannot be obtained in the
2 open market.

3 (c) Purchases or sales under \$5,000.00.

4 (d) The rendering of professional services.

5 (e) An emergency exists that directly and immediately affects
6 service or public health, safety, or welfare and that requires
7 immediate delivery of supplies, materials, equipment, or services
8 as determined under procedures approved and determined by the SMART
9 board.

10 (5) The SMART board shall expressly approve or deny in advance
11 the purchase of unique articles or articles that cannot be obtained
12 in the open market without competitive bidding if the amount of the
13 purchase in either case is in excess of \$50,000.00.

14 Sec. 43. Concessions for the sale of products or the rendition
15 of services for a consideration on SMART property shall be awarded
16 by SMART only pursuant to written specifications after competitive
17 bidding to the highest responsible bidder under procedures similar
18 to those required under section 42. The requirement for competitive
19 bidding does not apply to a concession involving the estimated
20 receipt by SMART of less than \$1,000.00 over the period for which
21 the concession is granted.

22 Enacting section 1. This act takes effect October 1, 2006.

23 Enacting section 2. The metropolitan transportation
24 authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426, is
25 repealed effective October 1, 2006.