

SENATE BILL No. 691

August 31, 2005, Introduced by Senator THOMAS 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

1

1 Sec. 1. This act shall be known and may be cited as the
2 "Detroit area regional transportation authority act".

3 Sec. 2. As used in this act:

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

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

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

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

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

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

27 (g) "Public transportation" means the transportation or

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

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

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

27 (j) "SMART" means the suburban mobility authority for regional

1 transportation described in section 30.

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

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

12 ARTICLE II

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

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

- 20 (a) Planning public transportation facilities.
21 (b) Designing public transportation facilities.
22 (c) Constructing public transportation facilities.
23 (d) Operating public transportation facilities.
24 (e) Administering public transportation facilities.
25 (f) Acquiring public transportation facilities.
26 (g) Contracting to provide public transportation facilities.
27 (h) Maintaining, replacing, improving, and extending public

1 transportation facilities.

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

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

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

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

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

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

1 section 3(5) and (6) in the most cost-effective manner possible.

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

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

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

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

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

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

1 transit services.

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

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

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

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

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

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

26 (a) Service overlap.

27 (b) Rates.

1 (c) Routing.

2 (d) Scheduling.

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

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

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

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

1 Sec. 5. (1) Subject to subsections (3) and (8), between
2 October 1, 2006 and September 30, 2007, a county with a population
3 of 750,000 or less that chooses not to participate in the authority
4 may withdraw from the authority by a resolution of withdrawal that
5 is approved by 2/3 vote of the members of the county board of
6 commissioners.

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

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

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

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

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

1 (5) The question under subsection (4) shall be placed on the
2 ballot in each county that does not contain a city with a
3 population of more than 750,000 at the next November general
4 election after the effective date of this act.

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

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

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

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

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

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

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

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

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

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

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

27 (c) A resolution is adopted by a majority vote of the county

1 board of commissioners of the county requesting membership.

2 (2) If the county seeking membership under this section has an
3 elected county executive under 1966 PA 293, MCL 45.501 to 45.521,
4 or 1973 PA 139, MCL 45.551 to 45.573, the county executive may veto
5 the resolution. The county board of commissioners for the county
6 seeking membership under this section may override the veto by a
7 2/3 vote of the county board of commissioners.

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

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

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

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

16 (d) Two members from each county in the region that has a
17 population over 1,750,000 so long as those members are not
18 residents of a city in that county that has a population over
19 750,000.

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

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

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

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

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

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

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

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

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

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

26 (d) Review and approve the authority's capital and operating
27 budgets to assure that the budgets are reported and administered in

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (8) The board may change the name of the authority by a

1 unanimous vote of the members. The board shall notify the state
2 transportation department within 10 days after a name change is
3 implemented.

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

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

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

18 Sec. 9. The authority may:

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

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

26 (c) Acquire and hold, by purchase, lease, grant, gift, devise,
27 bequest, condemnation, or other legal means, real and personal

1 property, including, but not limited to, franchises, easements, and
2 rights-of-way on, under, or above property within the region. If
3 there is no transit system established and operating public
4 transportation facilities within 10 miles beyond any portion of the
5 region, the authority shall have the powers enumerated in this
6 subdivision for 10 miles beyond that portion of the region.

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

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

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

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

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

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

1 (j) Receive the proceeds of taxes, special assessments, and
2 charges imposed, collected, and returned to the authority under the
3 law.

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

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

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

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

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

1 to the board before consideration of proposed fare changes.

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

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

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

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

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

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

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

1 community or group of communities.

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

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

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

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

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

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

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

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

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

25 (2) The authority shall be bound by existing collective
26 bargaining agreements with publicly or privately owned entities
27 that are acquired, purchased, or condemned by the authority.

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

9 (a) Wages and salaries.

10 (b) Hours and working conditions.

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

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

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

18 (a) Worker's compensation.

19 (b) Pension.

20 (c) Seniority.

21 (d) Wages.

22 (e) Sick leave.

23 (f) Vacation.

24 (g) Health and welfare benefits.

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

27 (4) Employees of the acquired transportation system who left

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

5 (5) For federally funded activities, the authority shall enter
6 into and comply with the arrangements that the U.S. secretary of
7 labor certifies as fair and equitable in compliance with 49 USC
8 5333(b).

9 (6) Before beginning to operate any new transit service or
10 public transportation facility or entering into any contract or
11 other arrangements for the operations of the transit service or
12 public transportation facility, the authority shall extend to the
13 employees providing public transportation services directly for or
14 by contract with the authority, in order of the employee's
15 seniority with the employee's employer, the first opportunity for
16 reasonably comparable employment in any new jobs with respect to
17 the operations for which the employee can qualify after a
18 reasonable training period. The authority shall provide for the
19 first opportunity required under this subsection in any contract to
20 operate a new transit service or public transportation facility.
21 Employers shall comply with all collective bargaining agreements in
22 accordance with the national labor relations act, 49 Stat. 449, and
23 1947 PA 336, MCL 423.201 to 423.217.

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

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

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

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

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

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

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

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

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

27 (2) The chief executive officer shall prepare and the board

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

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

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

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

1 qualified and responsible exist in the general market area within
2 which it is practicable to obtain quotations.

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

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

12 (a) The purchase of unique articles.

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

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

16 (d) The rendering of professional services.

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

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

26 Sec. 21. Concessions for the sale of products or the rendition
27 of services for a consideration on authority property, and renewal

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

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

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

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

1 Sec. 23. Except as otherwise provided in this section, claims
2 that arise in connection with the authority shall be presented as
3 ordinary claims against a common carrier of passengers for hire.
4 Written notice of any claim based on injury to persons or property
5 shall be served on the authority not later than 60 days after the
6 occurrence that gave rise to the claim. The disposition of the
7 claim shall rest in the discretion of the authority. Claims that
8 may be allowed and final judgment shall be paid from authority
9 funds. Claims against the authority shall only be brought in a
10 court of competent jurisdiction in a county in the region in which
11 the authority principally carries on its functions.

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

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

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

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

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

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

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

10 ARTICLE III

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

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

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

1 from SMART.

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

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

10 (a) Planning public transportation facilities.

11 (b) Designing public transportation facilities.

12 (c) Constructing public transportation facilities.

13 (d) Operating public transportation facilities.

14 (e) Administering public transportation facilities.

15 (f) Acquiring public transportation facilities.

16 (g) Contracting to provide public transportation facilities.

17 (h) Maintaining, replacing, improving, and extending public
18 transportation facilities.

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

20 (6) If SMART ceases to operate or is dissolved and a successor
21 agency is not created to assume its assets and liabilities, and
22 perform its functions, and if SMART is authorized to secure the
23 payment of compensation under section 611(1)(a) of the worker's
24 disability compensation act of 1969, 1969 PA 317, MCL 418.611, then
25 the state guarantees the payment of claims for benefits arising
26 under the worker's disability compensation act of 1969, 1969 PA
27 317, MCL 418.101 to 418.941, against SMART during the time they

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

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

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

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

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

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

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

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

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

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

1 the SMART region.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (c) Review and approve the capital and operating budgets of
20 SMART to assure that the budgets are reported and administered in
21 accordance with the uniform budgeting and accounting act, 1968 PA
22 2, MCL 141.421 to 141.440a.

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

25 (e) Employ a general manager of SMART.

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

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

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

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

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

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

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

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

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

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

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

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

1 counties in which to commence and try action against SMART.

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

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

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

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

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

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

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

27 (4) A political subdivision desiring to enter into a contract

1 under subsection (1) shall authorize, by resolution of its
2 governing body, the execution of the contract, which resolution
3 shall be published in a newspaper of general circulation within the
4 political subdivision, and the contract may be executed without a
5 vote of the electors on the contract upon the expiration of 90 days
6 after the date of the publication unless, within the 90-day period,
7 a petition signed by not less than 5% of the registered electors
8 residing within the limits of the political subdivision is filed
9 with the clerk of the political subdivision requesting a referendum
10 upon the execution of the contract, and in that event the contract
11 shall not be executed until approved by the vote of a majority of
12 the electors of the political subdivision qualified to vote and
13 voting on the contract at a general or special election to be held
14 not more than 90 days after the filing of the petition.

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

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

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

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

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

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

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

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

16 (a) Wages and salaries.

17 (b) Hours and working conditions.

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

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

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

25 (a) Worker's compensation.

26 (b) Pension.

27 (c) Seniority.

1 (d) Wages.

2 (e) Sick leave.

3 (f) Vacation.

4 (g) Health and welfare benefits.

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

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

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

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

1 the national labor relations act, 49 Stat. 449, and 1947 PA 336,
2 MCL 423.201 to 423.217.

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

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

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

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

1 (a) The purchase of unique articles.

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

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

5 (d) The rendering of professional services.

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

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

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

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

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