

Legislative Analysis



LAND USE PLANNING AND TRANSIT-ORIENTED DEVELOPMENT

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**House Bill 5211 as enrolled
Public Act 305 of 2010**

**House Bill 5212 as enrolled
Public Act 306 of 2010**

Sponsor: Rep. Marie Donigan

House Committee: Intergovernmental and Regional Affairs

Senate Committee: Local, Urban and State Affairs

Second Analysis (1-12-11)

BRIEF SUMMARY: The bills would require local government land use planners to consider public transportation agencies and systems in their local land use planning process.

FISCAL IMPACT: House Bill 5211 would have no fiscal impact on the State of Michigan. Any local fiscal impact would be related to possible increased administrative costs associated with a public transportation review. House Bill 5212 potentially adds administrative costs in the preparation of a local unit's master plan.

THE APPARENT PROBLEM:

The American Public Transportation Association points out that public transit--that is, traveling on buses, trains, subways, trolleys, and ferries--is used each weekday by 35 million Americans. In recent decades, public transportation ridership has increased faster than the U.S. population and the use of the nation's highways. More than 7,700 providers of public and community transportation offer Americans freedom, opportunity, and the choice to travel by means other than a car.

Federal funds for public mass transit are made available to regional urban centers whose officials demonstrate a willingness and ability to work cooperatively, first creating and then implementing regional transit plans, and then by developing reliable funding systems. Unable to demonstrate adequate regional cooperation, for example, the communities in southeastern Michigan have failed to win very much needed federal funding for public transit projects.

In addition, Transit-Oriented Development--sometimes called TOD land use planning--can increase the economic vitality of local areas. It does so in three ways: first, it creates jobs by designing, building, and maintaining the intermodal links that are needed in seamless modern transit networks. Second, it fosters more construction, service, and technology jobs by spurring even more development along the networks it creates. Third, it saves consumers money by lowering their transportation costs, and by increasing their access to goods and services along the network.

Currently Michigan's land use planning laws do not specify that local land use planners consider public transit in the development of their Master Land Use Plans which are updated every five years. Likewise, local zoning ordinances need not consider public transportation services or facilities. Legislation has been introduced to change local land use planning law so that they consider public transportation, in order to better ensure the creation of a revitalized public transit network that serves the citizens of Michigan.

THE CONTENT OF THE BILLS:

The bills would amend two acts in order to include **public transportation agencies and systems** in the local land use planning process. A detailed description of each bill follows.

House Bill 5211 would amend the Michigan Zoning Enabling Act (MCL 125.3203) to expand the site plan review process in certain instances, in order to include public transportation.

Currently, the law requires that a zoning ordinance be based on a plan designed to, among other things, lessen congestion on the public roads and streets, and to facilitate adequate provision for a system of transportation. While retaining these provisions, House Bill 5211 would add "facilitate adequate provision for a system of transportation *including, subject to subsection (5), public transportation.*" The bill would then add subsection (5) to read: *The reference to public transportation facilities in subsection (1) only applies to a plan that is adopted or substantively amended more than 90 days after the effective date of the amendatory act that added this subsection.*

House Bill 5212 would amend the Michigan Planning Enabling Act (MCL 125.3803 et al.) to specify that public land use planning commissions consider public transportation (including facilities and routes) when they revise their master land use plans every five years (or when they substantively amend their master plans).

Currently the law requires that in the preparation of a master plan, a planning commission make careful and comprehensive surveys and studies of present conditions and future growth, consult with neighboring jurisdictions so that conflicts in master plans and zoning can be avoided, and also cooperate with all departments of the state and federal governments, as well as other public agencies. House Bill 5212 would retain these requirements, and require that a planning commission also cooperate with public transportation agencies.

A master land use plan now must include subjects that reasonably can be considered pertinent to the future development of the area, including a classification and allocation of land for agriculture, residences, commerce, industry, recreation, ways and grounds, public buildings, schools, soil conservation, forests, woodlots, open space, wildlife refuges, and other uses and purposes. House Bill 5212 would retain these classifications and add "subject to subsection (5), public transportation facilities."

The bill would then add subsection (5), to read: "The reference to public transportation facilities in subsection (2) only applies to a master plan that is adopted or substantively amended more than 90 days after the effective date of the amendatory act that added this subsection."

Now the master land use plan must also include the general location, character, and extent of streets, railroads, airports, bicycle paths, pedestrian ways, bridges, waterways, and waterfront developments. House Bill 5212 would retain these components and add "public transportation facilities and routes."

Under the law, a planning commission must send, by first class mail or personal delivery, a notice to many groups, explaining that the planning commission intends to prepare a master plan and requesting the recipients' cooperation and comment. House Bill 5212 would require that notice also be sent to public transportation agencies and public transportation systems, and that a copy of a local unit of government's proposed master plan be sent to public transportation agencies and systems in order to solicit review and comment.

[Note: House Bill 5212 would define "public transportation agency" to mean a governmental entity that operates or is authorized to operate intercity or local commuter passenger rail service in this state or a public transit authority created under one of the following acts: the Metropolitan Transportation Authorities Act of 1967, the Public Transportation Authority Act of 1986, Public Act 55 of 1963 (dealing with mass transportation authorities), the Home Rule City Act of 1909, the Revenue Bond Act of 1933, the Charter Township Act of 1947, and the Urban Cooperation Act of 1967.]

In addition, House Bill 5212 would define "public transportation facility" to mean that term as defined in Section 2 of the Metropolitan Transportation Authorities Act of 1967, MCL 124.402.

ARGUMENTS:

For:

Proponents of the Transit Oriented Development (TOD) bills, such as the Michigan Association of Planning, argue that "as Michigan seeks to regain its economic prominence, more attention must be given to public transportation." They ask "that local land use decision makers consider public transportation when approving site plans" and they note that such consideration "can go a long way to institutionalize the idea of public transportation as a local government responsibility." They say the bills will increase the awareness of the importance of public transportation systems to the economy, to the environment, and to our social systems that seek to accommodate the elderly, disabled, and disenfranchised.

Proponents note that effective regional public transit networks are vital to economic growth in Michigan. They argue that public transportation is good for American workers and their companies, and that every \$1 billion of investment in the nation's transportation infrastructure supports 36,000 jobs--jobs in manufacturing, construction, finance,

insurance and real estate, retail and wholesale trade, and services. Further, public transportation also moves people to and from their jobs. Businesses near public transportation have better employee reliability and less absenteeism and turnover. Finally, the 36,000 jobs supported and created by every \$1 billion of investment in public transportation result in roughly \$3.6 billion in business sales, and generate nearly \$500 million in federal, state, and local tax revenues, proponents say. They say that overall, every \$1 invested in public transportation generates \$4 in economic activity.

In particular, proponents say that regional public transportation increases real estate values and boosts development. For example, the city of Dallas had \$3 billion in transit-oriented development (sometimes called TOD projects) in 2005. By 2008, it was \$7 billion--associated with an additional \$78 billion in tax revenues. In Charlotte, North Carolina, there is \$1.8 billion in projected TOD investment, expected to provide an additional \$24.1 million annually in tax revenue.

For:

Those who support these bills also note that public transportation reduces our country's dependence on expensive foreign oil, offering citizens an alternative to rising gas prices; and is a responsible environmental choice that when combined with land use development and operational efficiencies can reduce greenhouse gases by 24 percent, making much smaller the nation's carbon footprint.

How do these savings achieved via public transit affect travelers? The Texas Transportation Institute studies traffic congestion in 439 urban areas of the United States; researchers there report that the average annual delay per traveler has climbed from 14 hours in 1982 to 36 hours in 2007. According to the TTI studies of small, medium, and large metropolitan areas, public transportation saves citizens millions of hours of delay and employers billions of dollars in congestion costs. Further, that increase in mobility is available to people of all ages, including school children and those who are poor and disabled.

Against:

Those who oppose the bills make two arguments. First, they say that the bills could be interpreted to require local land use planners to incur an expense in order to revise their local land use plans immediately upon enactment of these laws. In this way, the bills could impose an "unfunded mandate" on local officials and their cash-strapped budgets.

Second, opponents argue that real estate market forces alone should determine how, when, and where local developers propose and build their projects. Under these bills, opponents fear that the siting of local developers' projects could be hampered by already existing public transit routes and facilities. Opponents note that even well-intentioned local planning commissioners could deny local developers discretion in their land purchase and development decisions, denying them their livelihoods, and also denying communities' new and very much-needed economic development projects.

Response:

The substitute versions of the bills do not require that land use planners incur an expense to immediately revise their local Master Plans. Instead, the bills specify that when a local

land use Master Plan is revised every five years (or in the event it is substantively revised), members of the planning commission solicit the input of local transportation officials, and consider the location of public transportation systems and facilities.

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