

END PUBLIC TRANSIT AUTHORITY OPT-OUT FOR MUNICIPALITIES IN WAYNE AND OAKLAND COUNTIES

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House Bill 6088 (H-1) as passed by the House
Sponsor: Rep. Alabas A. Farhat
Committee: Local Government and Municipal Finance
Complete to 12-19-24

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

SUMMARY:

House Bill 6088 would amend the Public Transportation Authority Act to no longer allow municipalities in Wayne County and Oakland County to opt out of the county's public transit authority (see **Background**, below) and to remove the five-year limit on taxes levied by public transit authorities.

The act allows a public transportation authority, with voter approval, to levy a tax of up to five mills on all of the taxable property within the limits of the authority for authorized public transportation purposes. The tax may generally be levied for a period of up to five years, as determined by the authority, although a public transit authority may levy a tax for up to 25 years for public transit services that include a fixed guideway project (projects that operate on a separate right-of-way exclusively for public transit or that include a rail or overhead rail system) authorized under the federal Capital Investment Grant (CIG) program.

End Wayne County and Oakland County opt-out

Under the act, a political subdivision (a county, city, village, or township) that is a member of a public transit authority or the portion of a city, village, or township that is a member of a public authority may be released from membership if certain conditions are met. Generally speaking, a political subdivision's withdrawal must receive voter approval or the approval of the political subdivision's legislative body and two-thirds of the public transit authority's board members (not including those representing the political subdivision).¹ Withdrawal does not excuse entities from any previously authorized payment obligations, and the area continues to receive the transportation services until the political subdivision or portion thereof is no longer required to pay a tax levied by the authority.

House Bill 6088 would exempt from these provisions political subdivisions within a county with a public transit authority authorized under the Public Transportation Authority Act and a population of at least 1.1 million, meaning that they could not opt out of membership.² The exemption would take effect after the county's current public transit millage expires, at which time each political subdivision within the county would become a member of the public transit authority and be required to pay the millage, regardless of whether the political subdivision is a member before the bill takes effect.

¹ A political subdivision or other entity generally may withdraw without meeting these conditions until the expiration of the thirtieth day following incorporation of the authority or the expiration of the thirtieth day after the entity is notified that they are included in the authority.

² This exemption would only apply to Wayne County (1.8 million) and Oakland County (1.3 million), according to the 2020 federal Census.

End five-year millage limit

Additionally, House Bill 6088 would remove the five-year limit for public transit authority millages, allowing the number of years that a tax could be levied to be set by the public transit authority.³ (The 25-year exception for projects receiving CIG funding for a fixed guideway system would no longer be necessary and would also be removed.)

MCL 124.458 et seq.

BACKGROUND:

The state of Michigan provides local bus operating assistance to eligible public transit agencies through appropriations in the annual state transportation budget. This state assistance program is established in statute, specifically in section 10e of 1951 PA 1951 (“Act 51”). Although these eligible public agencies are commonly referred to as “public transit agencies,” they represent “eligible authorities and eligible governmental agencies” as defined in section 10c of Act 51 through reference to the various statutes under which transit agencies are organized. There are 80 local transit agencies eligible for state operating assistance under provisions of section 10e and the related definitions of section 10c. Of these 80 transit agencies that provide public transit services, 30 are organized under the Public Transportation Authorities Act.⁴

House Bill 6088 would amend Public Transportation Authorities Act. However, the bill would not affect any of the 30 transit agencies organized under that act that operate transit services. The bill would exempt a county with a population of 1.1 million or more from provisions that provide for political subdivisions to withdraw, or opt out, of the Public Transportation Authorities Act authority. Because only Wayne County and Oakland County meet that population threshold, the bill would apply only to the Wayne County Transit Authority and the Oakland County Public Transit Authority. Neither the Wayne County Transit Authority nor the Oakland County Public Transportation Authority exist as operating entities. They are effectively shell organizations established to levy and collect property taxes (the transit millage) within Wayne County and Oakland County, respectively, on behalf of the Suburban Mobility Authority for Regional Transportation, (SMART), a regional transportation authority organized under the Metropolitan Transportation Authorities Act. Although the bill would amend the Public Transportation Authorities Act, it effectively only affects SMART, an authority organized under the Metropolitan Transportation Authorities Act.

SMART provides public transportation services in Wayne, Oakland, Macomb, and Monroe Counties. Although SMART has no scheduled routes that both begin and end within the city of Detroit, SMART buses do provide express bus service between suburban communities and downtown Detroit. SMART operating costs not covered by farebox revenue are primarily funded by state operating assistance and by the transit millage levied in all of Macomb County, all of Oakland County, and portions of Wayne County excluding the city of Detroit.

Although Wayne County and Oakland County meet the bill’s population threshold, and the bill would apply only to the Wayne County Transit Authority and the Oakland County Public

³ A provision that currently allows a political subdivision, with voter approval, to make financial obligations for a period of over five years would also expire once the bill takes effect.

⁴ For additional information on local bus operating assistance and the organization of public transit agencies, see: [Fiscal Brief: The Comprehensive Transportation Fund \(CTF\) and State Support for Local Public Transportation - August 8, 2023](#)

Transportation Authority, for reasons provided below, the bill would currently only directly affect Wayne County.

Note that Macomb County participates in SMART under the authority of the Revenue Bond Act, which allows public corporations to make public improvements, including transportation systems. Many county public transportation systems are organized under provisions of that act. Because Macomb County is a member of SMART as a county, the county votes on transit millage requests as a county and all property in the county is assessed the millage. There are no opt-out communities in Macomb County.

For many years, both Oakland County and Wayne County participated in SMART through authorities organized under the Public Transportation Authority Act: respectively, the Oakland County Public Transportation Authority and the Wayne County Transit Authority. However, on November 8, 2022, Oakland County voters approved a 10-year, 0.95-mill countywide Oakland County public transportation millage to replace an expiring millage levied by the Oakland County Public Transportation Authority. Passage of this countywide millage, and implementation of multiple interlocal public transportation agreements, effectively provided for countywide transit service in Oakland County and eliminated opt-out areas. The initial interlocal public transportation agreement was approved by the Oakland County Board of Commissioners on February 16, 2023, and approved by the SMART Board of Directors on February 23, 2023.

As noted above, the transit millage in Wayne County is levied and collected through the Wayne County Transit Authority. Because of this form of organization, a number of political subdivisions (cities, villages, and townships) in Wayne County have opted out of the transit millage and do not receive regular transit service through SMART. As noted, House Bill 6088 would effectively eliminate the ability of these Wayne County political subdivisions to opt out of the millage, and effectively require all Wayne County political subdivisions to become a member of the Wayne County Transit Authority, after the county's public transportation millage in effect on the effective date of the bill expires.

Currently, Wayne County is the only county within SMART with opt-out communities.

The transit millage generated \$87.8 million for SMART operations in the fiscal year ending June 30, 2023.

BRIEF DISCUSSION:

According to committee testimony, transit access in Wayne County depends on which part of the county a person lives in, as 17 out of 43 communities in Wayne County—representing 500,000 residents—have opted out of the transit millage. The lack of bus access for these opt-out communities has resulted in a patchwork of services that is inadequate for getting people where they need to go, especially for students, seniors, and people with disabilities. Supporters of House Bill 6088 believe that the state's largest county should have more robust bus services and argue that the bill would empower Wayne County to collectively invest in a transit system by removing the ability for communities to opt out. They highlight that a majority of voters would still have to approve the renewal of the transit millage, meaning that voters throughout Wayne County would have a direct say in whether to continue funding public transit services.

FISCAL IMPACT:

House Bill 6088 would have no direct impact on state revenues or expenditures. In addition, the bill would have no direct impact on local units of government generally, including local public transit agencies, other than SMART. To the extent that the bill would provide for a countywide transit millage and eliminate opt-out communities in Wayne County, sometime after 2025, the bill could increase revenue for credit to SMART. The House Fiscal Agency has not estimated the amount of additional revenue at this time.

Representatives of SMART identified 17 Wayne County “opt-out” local units of government, including the city of Detroit. The city of Detroit is in a somewhat different position as compared to the other Wayne County opt-out communities. While the city is not currently included in the transit millage levied and collected by the Wayne County Transit Authority, it does contribute from its own city general fund to support transit services provided by the Detroit Department of Transportation. For the fiscal year ending June 30, 2023, the city transferred \$73.4 million from the city general fund to the city transportation fund.

To the extent that the bill results in an increase in SMART revenue, it could have a marginal impact on the formula distribution of local bus operating assistance—a distribution formula largely driven by local agency funding support. However, the impact cannot be readily estimated at this time, as there are a number of other factors affecting the formula distribution.

It appears that after the bill’s provisions become effective, the city of Detroit also would become subject to the transit millage as imposed and collected by Wayne County. The city could then elect to reduce its own general fund contributions for transit services, or work with SMART to increase service in the city.

POSITIONS:

Representatives of the following entities testified in support of the bill (11-14-24):

- Detroit Regional Chamber
- Transportation Riders United
- Wayne County

The following entities indicated support for the bill (11-14-24):

- Amalgamated Transit Union
- Michigan Environmental Council
- Regional Transit Authority of Southeast Michigan
- United Food and Commercial Workers Local 876

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