



House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

DETROIT AREA REGIONAL TRANSPORTATION AUTHORITY

**House Bill 5467 (First Conference
Report)**

Sponsor: Rep. Kwame Kilpatrick
House Committee: Commerce
**Senate Committee: Transportation and
Tourism**

Complete to 9-16-02

SUMMARY OF HOUSE BILL 5467 (FIRST CONFERENCE REPORT)

The bill would create a new act, the Detroit Area Regional Transportation Authority Act. The new act would take effect October 1, 2002. The Metropolitan Transportation Authorities Act of 1967 would be repealed as of the same date. The following are among the bill's major provisions.

- Article Two of the new act would create the new authority (colloquially referred to as DARTA). The initial membership would be all counties, cities, townships, villages, and local government consortiums within a region comprising Macomb, Monroe, Oakland, Washtenaw, and Wayne counties. (The consortiums of local units referred to are in Wayne County only, and are said to be the Conference of Western Wayne and the Downriver Community Conference.) The authority would provide for public transportation facilities for the region. It would be an agency and instrumentality of the state with all the powers of a public corporation so long as they were exercised for planning, designing, constructing, operating, administering, acquiring, or contracting to provide public transportation facilities; maintaining, replacing, improving, and extending public transportation facilities; or exercising the powers of public transportation facilities. The authority would not have the authority to design, construct, or operate ports or airports, although it could convey the public to and at ports and airports. [Article One contains definitions of terms used throughout the new act.]

- Article Three would provide for the continuation of the existing Suburban Mobility Authority for Regional Transportation (SMART), which has as members Oakland, Wayne, Monroe, and Macomb Counties. Generally speaking, it would put in place provisions governing SMART similar to those that currently appear in the Metropolitan Transportation Authorities Act of 1967, under which SMART currently operates or else new provisions similar to those applying to DARTA. Article Three would take effect October 1, 2002.

- The new authority would become the designated recipient for the purpose of receiving federal and state mass transportation funding. Under the Metropolitan Transportation Authorities Act, the Regional Transit Coordinating Council (RTCC) is the designated recipient. The new authority, as with the RTCC at present, could designate a city with a population over 750,000 (Detroit), SMART, and other transit systems not included in cities over 750,000, as subrecipients of federal and state transportation funds. The new authority would also be authorized to withhold funds under certain circumstances (as described later).

House Bill 5467 (9-16-02)

- Under current law, the RTCC is the designated recipient of funding and has planning and coordination functions. However, the existing act specifies that the RTCC cannot exercise any rights, duties, or powers provided to an authority and cannot employ operating personnel, negotiate collective bargaining agreements with operating personnel, or own operating assets of a public transportation service within the metropolitan area. The new authority, DARTA, would essentially combine the planning and coordinating powers of the RTCC with the operating powers of a transportation system authority.

- The bill would retain many definitions and provisions similar to those in the act being repealed regarding the powers and duties of a transportation authority. These include provisions dealing with federal and state funding; tax exemptions; preparation of annual operating and capital budgets and of five-year capital budgets; review of budgets, audits, and construction plans by a regional governmental and coordinating agency; fixing rates, fares, tolls, and rents; providing financial reports, including audits to the state; awarding concessions; the nature of claims against the authority; and competitive bidding, which would have higher dollar thresholds.

Key provisions of House Bill 5467 are summarized as follows:

Dedicated Funding Stream; Comprehensive Service Plan. Within one year after the selection of the chief executive officer, the authority would have to 1) present the initial comprehensive regional public transportation service plan to the legislature, governor, and the Department of Transportation; and 2) present to the legislature, the members of the House and Senate appropriations committees, and the governor its recommendations for legislation to fund the implementation of the comprehensive plan and for legislation to establish a dedicated funding stream for the authority. (The chief executive officer would have to be hired by March 20, 2003.) The service plan, which would have to be updated and presented annually, would have to contain: a specific plan for providing regional transportation for senior citizens, citizens with disabilities, and citizens without the economic means to provide their own personal transport; a cost-benefit analysis of the need for and effectiveness of the proposed plan, including an average cost-per-mile of service provided and an average cost-per-rider of service provided; an economic impact analysis of the ratio of public dollars expended on public transit services relative to the amount of private dollars invested in the region as a result of such services; a full accounting of all funding sources for the plan and, if any new taxes were called for, an analysis of how much each taxpayer, participating municipality, and county would pay versus what they currently pay for mass transit, and an analysis of how much of the tax or special assessment would be returned to taxpayers, municipalities, and counties in the form of public transit services; a discussion of how the plan provided for a fair distribution of services throughout the region; a discussion of how the specific and identifiable public transportation needs of the region were addressed in the plan; and a discussion of how the plan delivered measurable benefits.

Regional Coordination/Withholding Funds. Subject to the availability of funds, the authority would have to provide, or contract to provide, the services required for the implementation and execution of the comprehensive service plan and could contract with transportation operators within the region to provide services considered necessary to implement and execute the plan. The authority would coordinate all of the following functions between different owners and operators of public transportation (provided the coordination did not result

in the reduction in represented employees employed by SMART or DDOT); service overlap; rates; routing; scheduling; and any other function the authority considered necessary. (This coordination would not apply to any private transit operators who had not contracted with the authority.) The authority would have to provide notices of its coordination decisions to owners and operators of public transportation, and any owner or operator within the region that failed to comply with a coordination decision would be ineligible for grant assistance from the authority and could not receive any operating or capital assistance grants from the authority. Also, to the extent possible, the authority would have to facilitate and encourage connections with other forms of transportation, including taxicabs.

Counties and Consortiums Withdrawing and Joining. A county with a population of 750,000 or less that chose not to participate could withdraw by a resolution of withdrawal approved by a majority vote of the county board of commissioners. (This would apply to Monroe and Washtenaw counties.) As of January 1, 2005, a county with a population of more than 750,000 that did not contain a city with a population of more than 750,000 could withdraw as follows: 1) within 60 days the county board of commissioners by a two-thirds vote would have to adopt a resolution placing the question of withdrawal on the ballot of the next regularly scheduled November general election and 2) a majority of the electorate within each local unit of government would have to approve the question of withdrawal at that election. If the county had an elected executive, he or she could veto a resolution to put the question on the ballot. (This applies to the other counties, except Wayne County.) A consortium of local units located in Wayne County could also withdraw following essentially the same procedure.

A county or local governmental consortium that withdrew would lose its seat on the board and could not, without a unanimous vote of the authority board, contract for public transportation services with the authority. The withdrawing county would have to pay or make provisions to pay all obligations to the authority. However, beginning 60 days after the withdrawing county gave notice of its intent to withdraw, the withdrawing county would incur no further obligation to the authority until the withdrawal was completed.

A county any part of which is not more than 90 miles from the city limits of the city of Detroit and which is contiguous to another county that is a member of the authority could become a member upon the adoption of a resolution by the majority of the county board of commissioners. If the county had an elected executive, he or she could veto the resolution; however, the veto could be overridden by a two-thirds vote of the commissioners.

Governing Board. The authority would be governed by a board consisting of two members from each city in the region with a population over 750,000 (Detroit); two members from each county with a population over 750,000 (Wayne, Oakland, and Macomb) and less than 1.75 million; two members from each county with a population of over 1.75 million that are not residents of a city with a population of over 750,000 (Wayne County outside of Detroit); one member from each county with a population of 750,000 or less (Monroe and Washtenaw); and, as a non-voting member, one member and one alternate from each local governmental consortium, selected by a majority vote of the consortium governing board. The first board would have to be appointed within 30 days after the new act took effect, and the first board meeting would have to be within 60 days after the new act's effective date. The city

representatives would be chosen by the mayor, with the concurrence of a majority of the city council, and each would have to be a resident of the city. County members would be chosen by the chief executive officer of each county, with the concurrence of a majority of the county commissioners, and a board member would have to be a resident of the county he or she represented. (The chief executive officer of a county would be either the county executive or, where there was no county executive, the chairperson of the county board of commissioners.) Members of the board would serve at the pleasure of the appointing chief executive officer and could be removed from the board by the chief executive officer at any time.

The board would have to meet regularly, but not less than quarterly, and would be subject to the Open Meetings Act. A board member could not designate another representative to take his or her place on the board. However, each county and city would have the ability to appoint one alternate to serve if a permanent member was absent from a board meeting.

Voting Procedures. The board would act by a majority vote of the membership entitled to vote. A vote for the adoption of bylaws, for the adoption of rules of procedure, or for the transaction of business would not be effective unless the vote included at least one affirmative vote from a member that represented a city with a population of 750,000 or more (Detroit) and at least one affirmative vote from each county immediately contiguous to each city with a population of 750,000 or more (Wayne, Oakland, and Macomb counties). A vote to change the name of the authority would have to be unanimous. The board could not engage in proxy voting.

Board Powers and Responsibilities. The board of the authority would be required to select and retain a chief executive officer; adopt bylaws and rules and procedures to govern board meetings; establish policies to implement day-to-day operations; review and approve the capital and operating budgets; conduct an annual audit; as required by state or federal law, review or review and approve the capital or operating budgets of SMART or other transit systems receiving funds or to which funds were disbursed; adopt the comprehensive plan; develop performance measures of the efficiency and effectiveness of public transportation services; develop and specify uniform data requirements to assess the costs and benefits of services; formulate procedures for establishing priorities; establish and implement a standardized reporting and accounting system under which transit system operators would make quarterly reports on revenues and expenditures and would submit annual and proposed budgets to the authority; establish and implement standards relating to operating efficiency and cost control of transit system operators; and establish public transportation policy for the region. The board would have to employ an independent certified public accounting firm to provide annual financial audits for the authority and to review the audits of SMART and other operators of systems that received funds directly or indirectly from the authority. The cost associated with the audits and reviews would be the responsibility of the operator being audited. The board also would have to appoint a citizens advisory committee and a ridership committee.

The board would have the power to plan, acquire, construct, operate, maintain, replace, improve, extend, and contract for transportation facilities within the region; acquire and hold real and personal property, including franchises, easements, and rights-of-way through purchase, lease, grant, condemnation, and other legal means; apply for and accept grants, loans, and contributions from any source; sell, lease, or use any property it acquires; grant to public or

privately owned utilities the right to property it acquires; grant to any other public transportation facility the right to use property it acquires; contract with, or enter into agreements with, any unit of government, including transportation authorities or public transit systems inside or outside the region, or with private enterprise for service contracts, joint use contracts, and contracts for the construction or operation of any part of the transportation facilities; borrow money; receive the proceeds of taxes, special assessments, and charges imposed, collected, and returned to the authority under the law; and exercise all other powers necessary, incidental, or convenient for carrying out the purposes of the new act.

Taxes, Pledging of Credit. Under the bill, the authority could not levy taxes and it could not pledge the credit or taxing power of the state or of any political subdivision except as specified. The authority could pledge the receipts of taxes, special assessments, or charges that the state or a political subdivision collected so long as the receipts of the taxes, special assessments, or charges were returnable and payable by law or contract to the authority. The authority could pledge the pledge of a political subdivision of the state of its full faith and credit in support of its contractual obligations to the authority.

Citizens Advisory Committee. The authority board would have to appoint a citizens advisory committee made up of region residents. The bill would require that 40 percent of the committee be users of public transportation and that 25 percent of the user members be seniors or persons with disabilities. Wayne, Oakland, and Macomb counties would each have two public transportation user members, the city of Detroit would have two members who were users of public transportation, and the other counties would each have one public transportation user member. Also, 30 percent of the membership would have to be made up of individuals from organizations representing seniors and persons with disabilities and 30 percent of the committee would have to be made up of individuals representing business, labor, community, and faith-based organizations. The committee would have to meet at least quarterly. The committee would: review and comment on the comprehensive plan; advise the board regarding the coordination of functions between different owners and operators of public transportation facilities; review and comment on the specialized services coordination plan required by state law; and provide recommendations on other matters concerning public transportation to the board. There would also be a ridership committee established consisting of a representative group of public transit system riders living in the region. That committee would be responsible for reporting concerns to the board on a regularly scheduled basis. Further, a community or groups of communities in the region could create citizen advisory councils to relate concerns to the board on a regularly scheduled basis. These councils would have to be composed of members representative of the neighborhoods within the communities or group of communities.

Chief Executive Officer. The chief executive officer would administer the authority in accordance with the comprehensive regional public transportation plan, the operating budget, the general policy guidelines established by the board, the applicable governmental procedures and policies, and the new act. He or she would be responsible for the supervision of all authority employees. The terms and conditions of the chief executive officer's employment, including length of service, would have to be specified in a written contract. A chief executive officer would have to be selected and retained by March 20, 2003.

Employee Protections. The authority would have the right to bargain collectively and enter into agreements with labor organizations. For federally funded activities, the authority would have to enter into and comply with the arrangements that the U.S. Secretary of Labor certified as fair and equitable under federal law.

The authority would be bound by existing collective bargaining agreements with publicly and privately owned entities that were acquired, purchased, or condemned by the authority. Members and beneficiaries of any pension or retirement system established by the acquired transportation system, and beneficiaries of any of the benefits established by the acquired transportation system, would continue to have rights, privileges, benefits, obligations, and status under the acquired pension or retirement system or benefits. The authority would have to assume the obligations of public transportation systems or transit systems acquired with regard to wages and salaries; hours and working conditions; sick leave and health and welfare benefits; and pension or retirement benefits, including retiree health care benefits.

No employee of an acquired transportation system who was transferred to a position with the authority could, by reason of the transfer, be placed in a worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare benefits, or any other benefits enjoyed as an employee of the acquired system. Employees of the acquired system who left to enter into military service of the United States would have the same rights with respect to the authority as they would have had as employees of the acquired system.

Before beginning to operate any new transit service or public transportation facility, or entering into any new contract or other arrangements for the operation of the service or facility, the authority would have to extend to the employees providing public transportation services directly to or by contract with the authority, in order of seniority with the employee's employer, the first opportunity for reasonably comparable employment in any new jobs for which the employee could qualify after a reasonable training period. The authority would have to provide for the first opportunity required as just described in any contract to operate a new service or facility. Employers would have to comply with all collective bargaining agreements in accordance with the federal National Labor Relations Act and the state Public Employment Relations Act of 1947.

The authority could contract only with SMART and the Detroit Department of Transportation (DDOT) for any public transportation or related service that SMART or DDOT offered as of May 22, 2002 (unless those agencies had been declared ineligible for grant assistance under the act). The bill specifies that nothing in the new act would require the authority to provide funds to either SMART or DDOT beyond those received by the authority as the designated recipient.

Workers Disability Benefits. The state would have to guarantee the payment of claims for benefits arising under the Worker's Disability Compensation Act of 1969 during the time the authority was approved as a self-insured employer if the authority ceased to exist or was dissolved; a successor agency was not created to assume the assets and liabilities and perform the functions of the authority; and the authority was authorized to secure the payment of compensation under a special section of the workers' compensation act. The state would be

entitled to a lien that would take precedence over all other liens in the amount of all the payment of the compensation claims. The lien would be on the assets of the authority.

Public Transportation Facility. The term "public transportation facility" in the bill would refer to all property, real and personal, public or private, used for providing public transportation. The term includes, but is not limited to, automated guideways, overpasses and skywalks, street railways, buses, tramlines, subways, monorails, rail rapid transit, bus rapid transit, and tunnel, bridge, and parking facilities used in connection with public transportation facilities. The term would not include taxis, limousines, state, county, or local roads, highways, ports, airports, motor bus charter services or operations not acquired by the authority or SMART, sightseeing services, private intercity bus services, or transportation used exclusively for school or church purposes. The bill would also define the term "transit system" as any individual, partnership, corporation, association, municipal corporation, limited liability company, public authority, public benefit agency, unit of government, or any person or entity other than the authority or SMART that provides public transportation.

Analyst: C. Couch

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