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House Bill 5467 (Substitute S-5 as passed by the Senate)
House Bill 5468 (Substitute H-1 as passed by the Senate)
Sponsor: Representative Kwame Kilpatrick
House Committee: Commerce
Senate Committee: Transportation and Tourism

Date Completed: 6-13-02

CONTENT

House Bill 5467 (S-5) would create the "Detroit Area Regional Transportation Authority Act" to establish the Detroit Area Regional Transportation Authority (DARTA), whose initial members would be Macomb, Monroe, Oakland, Washtenaw, and Wayne Counties and the political subdivisions within those counties. The Authority would be required to develop and implement a comprehensive regional public transportation service plan, and function as the designated recipient of Federal and State transportation funding.

The bill also would continue the Suburban Mobility Authority for Regional Transportation (SMART), whose members are (and would continue to be) Macomb, Monroe, Oakland, and Wayne Counties.

A county with a population of 750,000 or less could withdraw from DARTA or SMART upon the county board of commissioners' approval of a resolution. In a county other than Wayne County, or within a local governmental consortium, the county board or consortium governing board could place the question of withdrawing from DARTA on the ballot according to a schedule in the bill. The question would have to be placed on the ballot in a county other than Wayne at the next general election after the bill's effective date.

Both DARTA and SMART would be authorized to acquire and operate public transportation facilities; would have to take all reasonable measures to provide regional transportation for senior citizens, citizens with disabilities, and

citizens unable to afford personal transportation; and could provide adequate transportation to other citizens. Both authorities also would have to obtain competitive bids before making purchases and awarding contracts; would be bound by collective bargaining agreements with public or private entities acquired by the authorities; would be subject to employee protective arrangements for Federally funded activities; and would be prohibited from spending any public funds on political activities.

Neither DARTA nor SMART would have taxing authority. Both could borrow money, and SMART could issue bonds.

The bill would take effect on October 1, 2002, and the Metropolitan Transportation Authorities Act (which presently governs SMART) would be repealed on that date.

House Bill 5468 (H-1) would amend the Motor Bus Transportation Act to add DARTA to the authorities that are exempt from the Act. The bill also would require an exempt authority to comply with the Act when operating outside of the political subdivisions permitted by an interlocal agreement under the Urban Cooperation Act. The bill is tie-barred to House Bill 5467.

A more detailed description of [House Bill 5467 \(S-5\)](#) follows. (In various provisions, the bill refers to a "city in the region that has a population of more than 750,000" (which refers to Detroit); "a county in the region that has a population of 750,000 or less" (which

includes Monroe and Washtenaw); "a county in the region that has a population over 750,000 and less than 1,750,000" (which includes Macomb and Oakland); and "a county in the region that has a population over 1,750,000" (which refers to Wayne County). The summary below generally uses the names of the local units, rather than the population references.)

Creation of DARTA

Membership. The initial members of DARTA would be all counties, cities, townships, and villages within the "region", which would mean Macomb, Monroe, Oakland, Washtenaw, and Wayne Counties, and the cities, townships, and villages within those counties. "Region" would include any county that became a member and would not include any county that withdrew from the Authority.

A county with a population of 750,000 or less (Monroe or Washtenaw) could withdraw from DARTA by a resolution approved by a majority vote of the county board of commissioners.

In each county other than Wayne, the question of withdrawing from DARTA would have to be placed on the ballot at the next general election after the bill's effective date. On January 1, 2005, and on January 1 every four years after 2005, a county other than Wayne County could withdraw from DARTA if, within 60 days, the county board of commissioners by a majority vote adopted a resolution placing the question of withdrawal on the ballot of the next general election, and a majority of the electors approved the question.

Also, on the bill's effective date, on January 1, 2005, and on January 1 every three years after 2005, a local governmental consortium could withdraw from DARTA if, within 60 days, the consortium's governing board by a majority vote adopted a resolution placing the question of withdrawing on the ballot of the next regularly scheduled primary or general election in each of the local units in the consortium, and a majority of the electors approved the question. ("Local governmental consortium" would mean a legal or administrative entity described in the Urban Cooperation Act, and provided for in an interlocal agreement entered into under the bill between cities, villages, or townships

within a county in the region containing a city with a population of 500,000 or more, and in existence before January 1, 2002.)

A county could become a member of DARTA if any part of the county were within 90 miles from the city limits of Detroit; the county were contiguous to another county that was a DARTA member; and a majority of the county board of commissioners of the joining county adopted a resolution requesting membership.

If a county seeking to join or withdraw from DARTA had an elected county executive, he or she could veto the resolution. The county board of commissioners could override the veto by a two-thirds vote.

A county or local governmental consortium that withdrew from DARTA would lose its seat on the Authority board and could not, except on the unanimous affirmative vote of the board, contract for public transportation services with DARTA. A county or consortium that withdrew would have to pay, or make provision to pay, all of its obligations to the Authority. Beginning 60 days after the county or consortium gave notice of its intent to withdraw, it could incur no further obligation to DARTA until the withdrawal was completed. Obligations of a transit system within the withdrawing county or local governmental consortium owed directly to DARTA would not be obligations of the county or consortium for these purposes. After the county or consortium had withdrawn, the Michigan Department of Transportation (MDOT) would have to reduce the level of State funding to the Authority by the amount allocable directly to the withdrawing county or consortium and transmit the funds directly to the county or consortium.

Any transit system within the withdrawing county or local governmental consortium would have to pay or make provision to pay all of its obligations to DARTA. After the county or consortium had withdrawn, MDOT would have to reduce the level of State funding to DARTA by the amount allocable directly to that transit system and transmit the funds directly to the transit system.

(The bill would define "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 DARTA, or SMART, that provided public transportation. "Public transportation" would mean the transportation or conveyance of people within the DARTA region or the SMART region by means available to the general public, including senior citizens, citizens with disabilities, and citizens without the economic means to provide their own personal transportation. The term would not include transportation by automobiles not used for conveyance of the general public as passengers. The SMART region would include Oakland, Wayne, Monroe, and Macomb Counties and the cities, townships, and villages within those counties. It would not include any county that had withdrawn from SMART or the cities, townships, or villages within that county.)

DARTA Board. The Authority would be governed by a board consisting of the following:

- Two members from Detroit.
- Two members each from Macomb and Oakland Counties.
- One member each from Monroe and Washtenaw Counties.
- Two members from Wayne County who were not residents of Detroit.

The board also would include one member and one alternate from each governmental consortium, selected by a majority vote of its governing board. This member or alternate would be a nonvoting member.

The mayor of Detroit would have to select the members to represent that city. The appointment of a board member would require the concurrence of a majority of the city council.

The chief executive officer of each county that was entitled to membership on the board would have to select the member or members to represent that county. The appointment of a board member would require the concurrence of a majority of the county board of commissioners.

The first board would have to be appointed within 30 days of the bill's effective date. A board member would serve at the pleasure of the chief executive officer of the city or county he or she was representing, and would have to be a resident of that city or county.

Board Responsibilities. The board would be required to do the following:

- Adopt bylaws and rules and procedures governing board meetings.
- Establish policies to implement DARTA's day-to-day operation.
- Establish public transportation policy for the region.
- Review and approve DARTA's capital and operating budgets to ensure that they were reported and administered in accordance with the Uniform Budgeting and Accounting Act.
- Conduct an annual audit in accordance with that Act.
- Adopt the comprehensive regional public transportation service plan developed by DARTA (described below).
- Develop performance measures of the efficiency and effectiveness of the provision of public transportation services to the region.
- Formulate procedures for establishing priorities in the allocation of funds for public transportation services.
- Establish and implement a standardized reporting and accounting system under which transit systems receiving funding from DARTA would make quarterly reports on revenues and expenditures and submit annual and proposed budgets to the Authority.
- Establish and implement standards relating to operating efficiency and cost control of transit systems.

Also, as required by State or Federal law to receive or disburse funds to SMART or any transit system in the region, the board would have to review, or review and approve, the capital and operating budgets of SMART or that transit system.

The board would have to act by a majority vote of its membership entitled to vote. A vote for the adoption of bylaws, for the adoption of rules of procedure, or for the transaction of business, however, would not be effective unless it included at least one affirmative vote from a member representing Detroit, and at least one affirmative vote from each county immediately contiguous to Detroit.

The board could not engage in proxy voting, and would be subject to the Open Meetings Act.

CEO. By March 20, 2003, the board would have to select and retain a chief executive officer (CEO). The CEO would have to administer DARTA in accordance with the comprehensive regional public transportation service plan, the operating budget, the general policy guidelines established by the board, the applicable governmental procedures and policies, and the proposed Act. The CEO would be responsible for supervising all DARTA employees. All terms and conditions of the CEO's employment, including length of service, would have to be specified in a written contract.

Citizens Advisory Committee. The board would have to appoint a citizens advisory committee that consisted of region residents. Users of public transportation would have to make up 40% of the committee, and at least 25% of the users would have to be seniors or persons with disabilities. The committee would have to include two of the users of public transportation from Wayne County, two from Oakland County, two from Macomb County, two from Detroit, and one from each additional member. Individuals from organizations representing seniors and persons with disabilities would have to make up 30% of the committee. The remaining 30% would have to consist of individuals representing business, labor, community, and faith-based organizations.

The committee could make reports, including recommendations, to the board at each board meeting. The committee would have to review and comment on the comprehensive regional public transportation service plan; advise the board regarding the coordination of functions between different owners and operators of public transportation facilities within the region; and review and comment on the specialized services coordination plan required by Public Act 51 of 1951 (the Michigan Transportation Fund law); and provide recommendations on other matters concerning public transportation in the region.

Ridership Committee. The board would have to establish a ridership committee consisting of a representative group of transit system riders living in the region. The committee would have to report its concerns to the board on a regularly scheduled basis.

Other Board Activities. The board would have to employ an independent certified public

accounting firm to provide annual financial audits for DARTA and to review the audits of SMART and other operators of transit systems that received funds from DARTA. The cost of the audits and reviews would be the responsibility of the operators.

The board could elect to become a participating municipality on behalf of all DARTA employees, including acquired employees, pursuant to the Municipal Employees Retirement Act.

The board could change DARTA's name by a unanimous vote.

Transportation Services, Facilities, & Funding

The bill specifies that DARTA would be an agency and instrumentality of the State that would have all of the powers of a public corporation, as long as they were exercised for planning, designing, constructing, operating, administering, acquiring, and/or contracting to provide public transportation facilities; maintaining, replacing, improving, and extending public transportation facilities; and/or exercising the franchise of public transportation facilities.

The Authority could not design, construct, or operate ports or airports, but could provide service to and at ports and airports for the purpose of conveying the public to them.

The Authority would have to take all reasonable steps to provide regional transportation for senior citizens, citizens with disabilities, and citizens without the economic means to provide their own personal transportation. Also, DARTA would have to take all reasonable measures to see that regional transportation services for those citizens were the first services provided by it, and the last services reduced if DARTA reduced services. The Authority would have to take all reasonable measures to provide adequate transportation services to other citizens, as well. The Authority would have to ensure that it met these obligations in the most cost-effective manner possible.

In addition, DARTA would have to provide for public transportation facilities for the region. In doing so, DARTA could exercise the powers described above. ("Public transportation facility" would mean all real and personal property, public or private, used for providing

public transportation. The term would include 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 DARTA or SMART, sightseeing services, private intercity bus services, or transportation used exclusively for school or church purposes.)

The bill expresses a legislative intent that, by October 1, 2002, the DARTA board become the designated recipient for purposes of receiving Federal funds under Chapter 53 of Title 49 of the United States Code, and the regulations promulgated under that chapter. As the designated recipient, the board would have to apply for Federal and State transportation operating and capital assistance grants, and could designate DARTA, Detroit, SMART, and the other transit systems not included Detroit as subrecipients of Federal and State transportation funds. To the extent required by Federal law, the board would have to execute an agreement conferring on Detroit, SMART, and other transit systems not included in Detroit the rights to receive and dispense grant funds and containing any other provisions required by Federal law and regulations.

On behalf of the board, the board secretary would have to submit the region's application for Federal and State transportation funds to the responsible agencies. The application would have to designate the distribution of all capital and operating funds paid directly to DARTA, Detroit, SMART, and other transit systems not included in Detroit. Except as otherwise provided in Public Act 51 of 1951, and except as provided below, if DARTA were the recipient of Federal or State funds, its CEO would have to remit to Detroit, SMART, and other transit systems their designated distribution of funds in a manner consistent with the application.

Except in regard to any private transit entities that had not contracted with DARTA, the Authority would have to coordinate all of the following functions between different owners and operators of public transportation facilities within the region relative to transit services:

service overlap, rates, routing, scheduling, and any other function that DARTA considered necessary to coordinate in order to implement or execute the comprehensive plan. The Authority would have to give notice of its coordination decisions to owners and operators of public transportation facilities in the region. Any owner or operator who failed to comply with the decisions could be declared ineligible for grant assistance from DARTA and, if declared ineligible, could not receive any transportation operating or capital assistance from the Authority.

To the extent possible, DARTA would have to facilitate and encourage connections with other forms of transportation, including taxicabs.

Within one year after the selection of a CEO, the Authority would have to present to the Legislature, the members of the Senate and House Appropriations Committees, and the Governor its recommendations for legislation to fund the implementation of its comprehensive regional public transportation service plan (described below) and for legislation to establish a dedicated funding stream for DARTA. The recommendations would have to include an analysis of the availability of funding sources for the dedicated funding stream and the information required to be included in the comprehensive plan.

Comprehensive Plan

The Authority would have to develop, implement, and update a comprehensive regional public transportation service plan for providing public transit services in the region. Within one year after the selection of a CEO, the Authority would have to present its initial plan to the Legislature, the Governor, and MDOT. In each succeeding year, DARTA would have to update the plan and present it to the Legislature, the Governor, and MDOT.

The comprehensive plan would have to contain the following:

- A specific plan for providing regional transportation for senior citizens, citizens with disabilities, and citizens without the economic means to provide their own personal transportation.
- A cost-benefit analysis of the necessity and effectiveness of the proposed plan,

including an average cost per mile and per rider of services provided.

- An economic impact analysis of the ratio of public dollars spent on public transit services relative to the amount of private dollars invested in the region as a result of public transit services.

The plan also would have to include a full accounting of all funding sources for it and, if any new taxes or special assessments were called for, an analysis of how much each individual taxpayer, participating local 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 the individual taxpayer, local municipality, and county in the form of public transit services.

In addition, the plan would have to contain a discussion of how it did the following:

- Provided for a fair distribution of services throughout the region.
- Addressed the specific and identifiable public transportation needs of the region.
- Delivered measurable benefits.

Subject to the availability of funds, DARTA would have to provide or contract to provide those services required for the implementation and execution of the plan. The Authority could contract with transportation operators within the region to provide services that DARTA considered necessary for this purpose.

The Authority would have to hold a public meeting annually on the comprehensive regional transportation service plan and all plan updates.

DARTA Powers & Responsibilities

The Authority could plan, acquire, construct, operate, maintain, replace, improve, extend, and contract for transportation facilities within the region. If there were no transit system established or operating public transportation facilities within 10 miles beyond any portion of the region, DARTA would have this power for 10 miles beyond that portion.

The Authority could acquire and hold, by purchase, lease, grant, gift, condemnation, or other legal means, real and personal property, including franchises, easements, and rights-of-way on, under, or above property within

the region (or within 10 miles of any portion where no transit system was established and operating public transportation facilities).

The Authority also could do the following:

- Borrow money to finance and perform its powers and duties.
- Apply for and accept grants, loans, or contributions from any source.
- Receive the proceeds of taxes, special assessments, and charges imposed, collected, and returned to DARTA under the law.
- Grant to public or privately owned utilities the right to use any property DARTA had acquired.
- Contract with, or enter into agreements with, any unit of government including transportation authorities or transit systems located inside or outside the region or private enterprise for service contracts, joint use contracts, and contracts for the construction or operation of any part of the transportation facilities or for any other reason DARTA determined necessary.
- Exercise all other powers that were necessary, incidental, or convenient for carrying out the purposes of the proposed Act.

The Authority would be required to fix rates, fares, tolls, rents, and other charges for the use of public transportation facilities and the services provided by DARTA within the region that it owned, had contracted for, or operated. The Authority would have to conduct a public hearing before implementing changes to the fares charged for services.

The Authority would have to give notice of its intent to apply for money from the Comprehensive Transportation Fund to the residents of the counties, cities, townships, and villages affected by the local transportation program. The Authority would have to make the application available for review by the residents for 30 days.

The Authority would have to prepare and publicize a detailed public report and financial statement of its operations at the end of each fiscal year.

The Authority could give assistance to transit systems that were operated within the region by any city or public agency.

In the exercise of its powers within the region, DARTA would be exempt from the Motor Carrier Act, the Motor Bus Transportation Act,

and the Township and Village Public Improvement and Public Service Act.

DARTA Financing

The Authority could not levy taxes. Except as otherwise provided, DARTA could not pledge the credit or taxing power of the State or any political subdivision. The Authority could pledge the receipts of taxes, special assessments, or charges that the State or a political subdivision collected, as long as the receipts were returnable and payable by law or contract to DARTA. The Authority also could pledge the pledge of a political subdivision of its full faith and credit in support of its contractual obligations to DARTA.

In addition to any other method of financing authorized by law, public transportation facilities could be financed by one or more of the following:

- Fares, rates, tolls, and rents.
- Other income or revenue from any source available, including appropriations and contributions and other revenue of the participating counties and political subdivisions in the region.
- Grants, loans, and contributions from Federal, State, or other governmental units.
- Grants, contributions, gifts, devises, or bequests from any other source.
- Taxes, special assessments, or charges imposed by law and collected by a State or political subdivision and returned or paid to DARTA under the law or pursuant to contract.

DARTA Budgets

The CEO would have to prepare, and the board would have to approve, an operating budget and a capital budget for DARTA for each fiscal year, as well as a capital program and an operating budget to cover five years. The first capital program and operating budgets would have to be submitted to the board within 270 days after the CEO was selected. The CEO would have to revise and update the capital program and operating budgets on an annual basis and submit the revised budgets to the board each fiscal year.

The Authority would have to submit its annual operating and capital budgets, financial audits, and construction plans to a regional

governmental and coordinating agency if such an agency existed in the region.

Competitive Bidding

Except as provided below, competitive bids would have to be secured before any purchase or sale, by contract or otherwise, was made or before any contract was awarded or renewed for construction, alteration, supplies, equipment, repairs, maintenance, and the provision of services to DARTA.

All purchases and sales in excess of \$50,000 would have to be awarded after advertisement in a manner determined by the DARTA board and set forth in a written purchasing policy. Bids would have to be publicly opened and read aloud at a date, time, and place designated in the invitation to bid. Invitations to bid would have to be sent at least one week before the bid opening to at least three potential bidders who were qualified technically and financially to submit bids, or a memorandum would have to be kept on file showing that fewer than three such bidders existed in the general market area within which it was practicable to obtain quotations.

Written price quotations from at least three qualified and responsible vendors would have to be obtained for all purchases and sales of \$50,000 or less but more than \$5,000, or a memorandum would have to be kept showing that fewer than three such vendors existed in the market area.

Competitive bidding would not be required for the purchase of unique articles or articles that could not be obtained in the open market, for purchases or sales under \$5,000, or for professional services. Competitive bidding also would not be required if an emergency directly and immediately affected service or public health, safety, or welfare, and required immediate delivery of supplies, materials, equipment, or services as determined under procedures approved and determined by the board.

The board would be required expressly to approve or deny in advance the purchase of unique articles or articles that could not be obtained in the open market without competitive bidding if the amount of the purchase in either case were over \$50,000.

The Authority could award and renew concessions for the sale of products or the rendering of services for a consideration on DARTA property only pursuant to written

specifications after competitive bidding to the highest responsible bidder under procedures similar to those required for purchases. This requirement would not apply to a concession involving DARTA's estimated receipt of less than \$1,000 over the period for which the concession was granted.

Acquisition of Transportation System

The Authority could acquire facilities, assets, and rights of existing and operating private or public transportation systems. Except as provided in the bill for collective bargaining and employee rights, no liability could be assumed or contracted for, other than for equipment and facilities. The Authority would not be required to comply with any statutory or charter limitations or prerequisites to an acquisition.

If the contract between DARTA and the existing and operating private or public transportation system provided only for operation of the existing system by the Authority or only for acquisition without consideration, the transaction would not be considered a sale of a public utility within any constitutional, statutory, or charter limitation or within any revenue bond ordinance.

If the negotiation between DARTA and an existing public or private transportation system did not reach a conclusion, the Authority would have to give the owner of the system written notice that the matter would proceed to binding final arbitration under the rules and procedures of the American Arbitration Association.

Collective Bargaining

The Authority would have the right to bargain collectively and enter into agreements with labor organizations. It would be bound by existing collective bargaining agreements with publicly or privately owned entities that were acquired, purchased, or condemned by DARTA. Members and beneficiaries of any pension or retirement system 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 assume the obligations of public transportation facilities or transit

systems that it acquired with respect 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 DARTA could, by reason of the transfer, be placed in a worse position with respect to workers' compensation, pension, seniority, wages, sick leave, vacation, health and welfare benefits, or any other benefits that he or she enjoyed as an employee of the acquired system.

Employees of an acquired transportation system who left that system to enter into military service of the United States would have the same rights with respect to DARTA under Public Act 263 of 1951, as they would have had as employees of the acquired transportation system. (Public Act 263 establishes privileges and rights of State and local employees who enter the U.S. armed forces.)

For Federally funded activities, DARTA would have to enter into and comply with the employee protective arrangements that the U.S. Secretary of Labor certified as fair and equitable in compliance with Federal law. (The Federal law provides that, as a condition of receiving transportation assistance, the interests of employees affected by the assistance must be protected under arrangements the U.S. Secretary of Labor concludes are fair and equitable (49 USC 5333(b)). These arrangements must include provisions necessary for the preservation of rights, privileges, and benefits (including pension rights and benefits) under existing collective bargaining agreements or otherwise; the continuation of collective bargaining rights; the protection of individual employees against a worsening of their positions related to employment; assurances of employment to employees of acquired mass transportation systems; assurances of priority of reemployment of employees whose employment is ended or who are laid off; and paid training or retraining programs.)

Before beginning to operate any new transit service or public transportation facility or entering into any contract or other arrangements for the operations of the service

or facility, DARTA would have to extend to the employees providing public transportation services directly for or by contract with the Authority, in order of the employees' seniority with their employer, the first opportunity for reasonably comparable employment in any new jobs with respect to the operations for which the employees could qualify after a reasonable training period. Employers would have to comply with all collective bargaining arrangements in accordance with the National Labor Relations Act and the Public Employment Relations Act.

Workers' Compensation Guarantee

The bill specifies that the State would guarantee the payment of claims for benefits arising under the Worker's Disability Compensation Act during the time DARTA was approved as a self-insured employer, if the Authority ceased to exist or were dissolved; a successor agency were not created to assume the assets and liabilities and perform the functions of DARTA; and the Authority were authorized to secure the payment of compensation under Section 611(1)(a) of the Worker's Disability Compensation Act (i.e., by receiving authorization to be a self-insurer from the Director of the Bureau of Worker's and Unemployment Compensation). The State would be entitled to a lien that would take precedence over all other liens in the amount of all the payment of claims made by the State on behalf of DARTA under these provisions. The lien would be on the assets of the Authority.

Claims against DARTA

Claims that arose in connection with DARTA would have to be presented as ordinary claims against a common carrier of passengers for hire. Written notice of any claim based on injury to persons or property would have to be served on DARTA within 60 days after the occurrence that gave rise to the claim. The disposition of the claim would rest in the discretion of the Authority. Claims that were allowed and final judgment would have to be paid from DARTA funds. Claims against DARTA could be brought only in a court of competent jurisdiction in a county in the region in which the Authority principally carried on its functions.

Other DARTA Provisions

A community or group of communities in the region could create citizen advisory councils to relate concerns to the board on a regularly scheduled basis. The councils would have to consist of members representative of the neighborhoods within the community or groups of communities.

The Authority could not be dissolved and its powers could not be diminished except as provided in the bill.

The property of DARTA and its income and operations would be exempt from all taxes of the State or a political subdivision of the State, and the Authority's property would be exempt from local zoning.

Records and other writings prepared, owned, used, possessed by, or retained by DARTA in the performance of an official function would have to be available to the public during normal business hours in accordance with the Freedom of Information Act.

Notwithstanding any other provision of the bill, if an emergency financial manager had been appointed for DARTA under the Local Government Fiscal Responsibility Act, the emergency financial manager could exercise the authority and responsibilities provided in the bill to the extent authorized by that Act.

The Authority would have to prepare and publish a detailed public report and financial statement of its operations at the end of each fiscal year. The Authority's fiscal year would begin October 1 and continue through September 30.

SMART Provisions

Beginning October 1, 2002, the Suburban Mobility Authority for Regional Transportation would be continued under the proposed Act. The CEO of SMART and the SMART board serving on that date would continue as the first CEO and board. The members of SMART would continue to be Oakland, Wayne, Monroe, and Macomb Counties.

A county with a population of 750,000 or less (Monroe) could withdraw from SMART by a resolution approved by a majority vote of the county board of commissioners. If the county withdraw, it would lose its seat on the SMART board and count not, except on the unanimous

affirmative vote of the board, contact for public transportation services with SMART.

SMART would have to take all reasonable measures to provide regional transportation for senior citizens, citizens with disabilities, and citizens without the economic means to provide their own personal transportation. SMART could provide adequate transportation services to other citizens only to the extent that doing so did not impair or preclude SMART's obligations to senior citizens, citizens with disabilities, and citizens unable to afford their own transportation.

As provided for DARTA, SMART would have the powers of a public corporation as long as they were exercised for public transportation facility purposes. In addition, SMART would have the same general authority as proposed for DARTA (e.g., acquiring, constructing, and operating public transportation facilities; applying for and accepting grants, loans, or contributions from any source; and receiving the proceeds of taxes, special assessments, and charges).

In addition, SMART could borrow money and issue bonds to finance and carry out its powers and duties. The bonds would have to be issued and sold in compliance with the Revised Municipal Finance Act, except that they could be issued for any period of years, but not more than 40 years. If the bonds or notes sold by SMART involved the pledge or use of State-collected or -administered funds, SMART would have to seek the approval of the DARTA board and MDOT. Notwithstanding any other provisions, SMART could not issue bonds, or use the revenue of the sale of bonds, for the construction, reconstruction, maintenance, or operation of a subway unless approved by concurrent resolution of the Legislature.

The board of SMART would consist of the CEOs of Macomb, Monroe, Oakland, and Wayne Counties. Also, every county with a population under 750,000 that was served by SMART would have one seat on the board. A CEO could designate an alternate to serve in his or her place on the board.

The board would have to appoint a general manager who would be the chief executive and operating officer of SMART. He or she would have management of the properties and business of SMART and its employees. The general manager would have to classify all the offices, positions, and grades of regular

employment required under a merit rating system, except that a maximum of 5% of the employees and officers would be exempt from the system.

The general manager also would have to prepare, and the SMART board would have to approve, a separate operating and capital budget for each fiscal year. Capital program and operating budgets also would have to be prepared for five-year periods. SMART would have to submit its annual operating and capital budget, financial audits, and construction plans to DARTA, far enough in advance of any final approval requirement for the DARTA board to have a reasonable time for review, comments, and revision.

SMART would be subject to generally the same provisions as proposed for DARTA, in regard to the financing of transportation facilities; claims against SMART; the setting of rates, fares, and other charges; competitive bidding; concessions; and citizen advisory councils. Also, SMART would be bound by existing collective bargaining agreements with publicly or privately owned entities that were acquired, purchased, or condemned by SMART. For Federally funded activities, SMART would have to enter into and comply with the employee protective arrangements that the U.S. Secretary of Labor certified as fair and equitable under Federal law.

Before beginning to operate any new transit service or public transportation facility or entering into any contract or other arrangements for the operations of the transit service or public transportation facility, the Authority would have to extend to the employees providing public transportation services directly for or by contract with SMART, in order of their seniority with their employer, the first opportunity for reasonably comparable employment in any new jobs with respect to the operations for which the employees could qualify after a reasonable training period. Employers would have to comply with all collective bargaining agreements in accordance with the National Labor Relations Act and the Public Employment Relations Act.

MCL 474.104 (H.B. 5468)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

House Bill 5467 (S-5)

The bill would result in increased local costs associated with the creation and operation of the new Detroit Area Regional Transportation Authority. The bill would require the Authority to hire an executive director, complete certain audits, and conduct other activities that would entail costs. The bill would not require any specific local unit of government or the State to cover these costs.

The bill would not affect the current formulas that govern the distribution of Federal or State operating assistance to transit agencies in Michigan. Public Act 51 of 1951 includes specific provisions to distribute State operating grants to transit agencies based on a percentage of eligible operating costs incurred by the agencies. These State funds are appropriated annually in the Michigan Department of Transportation budget. Federal formula-based grants are provided through Title 49 of United States Code and would not be affected by this bill. The manner in which the grants are distributed could be changed by the Authority; however, this is true under current statutory provisions.

The Regional Transportation Coordinating Council (RTCC) was created "for the purpose of establishing and directing public transportation policy" in the Detroit area. The RTCC is the current recipient of State operating assistance for the transit systems operating in the Detroit area. It is estimated that the RTCC will receive \$84 million in State assistance for the current year. This funding is shared between the Detroit Department of Transportation (65%) and the Suburban Mobility Authority for Regional Transit (35%). The Detroit Department of Transportation, in addition to receiving State assistance and farebox revenue, is supported by annual appropriations from the city's general fund. The Suburban Mobility Authority for Regional Transit is supported by farebox revenue, State operating assistance, and a 1/3 mill tax levied in most of Oakland County, most of Wayne County (excluding Detroit), and all of Macomb County.

Enacting Section 2, which would repeal Public Act 204 of 1967 (the SMART Act) effective October 1, 2002, would reduce State revenue

provided to "eligible authorities". Public Act (PA) 51 of 1951 provides for State operating assistance grants from the Comprehensive Transportation Fund (CTF) to "eligible authorities" for public transportation services. "Eligible authority" is defined under PA 51 as an authority organized pursuant to PA 204 of 1967. SMART is the only public transit authority organized under PA 204. In general, Public Act 51 provides for a grant from the CTF of up to 50% of SMART's eligible operating expenses. It would appear that the bill's provision repealing PA 204 of 1967 would result in SMART being ineligible for State operating assistance grants from the CTF under PA 51.

Similarly, the repeal of PA 204 would eliminate funding received by those local units of government within SMART that participate in the Municipal Credit Program. This program provides a total of \$4,000,000 annually from the CTF to local units of government in SMART.

House Bill 5468 (H-1)

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Craig Thiel

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.