

SUBSTITUTE FOR
HOUSE BILL NO. 4072

A bill to create the Detroit area regional transportation authority; to transfer certain powers of authorities to the Detroit area regional transportation authority; to provide regional transportation for senior citizens, citizens with disabilities, citizens without the economic means to provide their own personal transportation, and all other citizens; to continue the suburban mobility authority for regional transportation; to prescribe certain powers and duties of the authorities; to provide for the addition and withdrawal of certain local entities from the authority; to provide for the powers and duties of certain state agencies with respect to the authority; to provide for the issuance of bonds and notes; to provide for the state to guarantee payment of certain claims against the authority and give the state a lien in satisfaction of payment; to protect the rights of employees of existing public

transportation systems; to provide for the pledge of taxes, revenues, assessments, tax levies, and other funds for bond and note payments; to authorize certain local entities to levy property taxes and make special assessments to fulfill their obligations under certain contracts with the authority; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 ARTICLE I

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

4 Sec. 2. As used in this act:

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

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

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

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

19 (e) "Local governmental consortium" means a legal or
20 administrative entity consisting of 3 or more political

HB 4072 (H-4) as amended February 20, 2003

1 subdivisions in a geographically contiguous area formed under
2 section 7 of the urban cooperation act of 1967, 1967 (Ex Sess)
3 PA 7, MCL 124.507, and provided for in an interlocal agreement
4 entered into pursuant to that act between cities, villages, or
5 townships in the region.

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

9 (g) "Public transportation" means the transportation or
10 conveyance of persons within the region or SMART region by means
11 available to the general public, including, but not limited to,
12 senior citizens, citizens with disabilities, and citizens without
13 the economic means to provide their own personal transportation.
14 [Public transportation does not include taxis, limousines, motor
15 bus, charter services, or operations that are not acquired by the
16 authority or SMART, sightseeing services, private intercity bus services,
or transportation that is used exclusively for school or church
purposes.]

17 (h) "Public transportation facility" means all property, real
18 and personal, public or private, used for providing public
19 transportation. Public transportation facility includes, but is
20 not limited to, automated guideways, overpasses and skywalks,
21 street railways, buses, tramlines, subways, monorails, rail rapid
22 transit, bus rapid transit, and tunnel, bridge, and parking
23 facilities used in connection with public transportation
24 facilities. Public transportation facility does not include
25 taxis, limousines, state, county, or local roads, highways,
26 ports, airports, motor bus charter services or operations that
27 are not acquired by the authority or SMART, sightseeing services,

1 private intercity bus services, or transportation that is used
2 exclusively for school or church purposes.

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

10 (j) "SMART" means the suburban mobility authority for
11 regional transportation described in section 30.

12 (k) "SMART board" means the governing and administrative body
13 of SMART.

14 (l) "SMART region" means Oakland, Wayne, Monroe, and Macomb
15 counties and the cities, townships, and villages within those
16 counties. The term does not include any county that has
17 withdrawn from SMART or the cities, townships, or villages within
18 that county.

19 (m) "Transit system" means any individual, partnership,
20 corporation, association, municipal corporation, limited
21 liability company, public authority, public benefit agency, unit
22 of government, or any person or entity other than the authority,
23 or SMART that provides public transportation.

24 ARTICLE II

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

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

5 (a) Planning public transportation facilities.

6 (b) Designing public transportation facilities.

7 (c) Constructing public transportation facilities.

8 (d) Operating public transportation facilities.

9 (e) Administering public transportation facilities.

10 (f) Acquiring public transportation facilities.

11 (g) Contracting to provide public transportation facilities.

12 (h) Maintaining, replacing, improving, and extending public
13 transportation facilities.

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

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

20 (4) The authority shall not spend any public funds on
21 political activities.

22 (5) The authority shall take all reasonable measures to
23 provide regional transportation for senior citizens, citizens
24 with disabilities, and citizens without the economic means to
25 provide their own personal transportation. The authority shall
26 take all reasonable measures to see that regional transportation
27 services for those citizens are the first services provided by

1 the authority and that regional transportation services for those
2 citizens are the last services reduced by the authority if the
3 authority reduces services.

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

8 Sec. 4. (1) The authority shall provide for public
9 transportation facilities for the region. In providing for
10 public transportation facilities, the authority may exercise the
11 powers enumerated in section 3(2). The authority shall fulfill
12 its obligations under section 3(5), and shall take all reasonable
13 and necessary measures to ensure that it meets its obligations
14 under section 3(5) and (6) in the most cost-effective manner
15 possible.

16 (2) It is the intent of the legislature that, by June 30,
17 2003, the board shall become the designated recipient for
18 purposes of receiving federal funds under chapter 53 of title 49
19 of the United States Code, 49 U.S.C. 5307, 5308, 5309, 5310,
20 5311, and 5313, and the regulations promulgated under that
21 chapter. As the designated recipient, the board shall apply for
22 federal and state transportation operating and capital assistance
23 grants, and the board may designate the authority, a city with a
24 population of more than 750,000, SMART, and other transit systems
25 not included in a city of more than 750,000 population as
26 subrecipients of federal and state transportation funds. To the
27 extent required by chapter 53 of title 49 of the United States

1 Code, 49 U.S.C. 5307, 5308, 5309, 5310, 5311, and 5313, the board
2 shall execute an agreement conferring on a city with more than
3 750,000 population, SMART, and other transit systems not included
4 in the city of more than 750,000 population the right to receive
5 and dispense grant funds and containing any other provisions that
6 federal law and regulations require. On behalf of the board, the
7 secretary of the board shall submit in a timely manner the
8 region's application for federal and state transportation funds
9 to the responsible federal and state agencies. The application
10 shall designate the distribution of all capital and operating
11 funds that are paid directly to the authority, a city with a
12 population of more than 750,000, SMART, and the other transit
13 systems not included in a city of more than 750,000 in
14 population. Except as otherwise provided in 1951 PA 51,
15 MCL 247.651 to 247.675, and subject to subsections (5) and (6),
16 if the authority is the recipient of federal or state funds, the
17 chief executive officer of the authority shall remit to a city
18 with a population of more than 750,000, SMART, and the other
19 transit systems not included in the city of more than 750,000 in
20 population their designated distribution of those funds in a
21 manner consistent with the application.

22 (3) The authority shall develop, implement, and update a
23 comprehensive regional public transportation service plan for
24 providing public transit services in the region. The authority
25 shall present the initial comprehensive regional public
26 transportation service plan to the legislature, the governor, and
27 the state transportation department within 1 year after the

1 selection of the chief executive officer of the authority. In
2 each succeeding year, the authority shall update the
3 comprehensive regional public transportation service plan and
4 present it to the legislature, the governor, and the state
5 transportation department. The comprehensive regional public
6 transportation service plan shall contain all of the following:

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

10 (b) A cost-benefit analysis of the necessity and
11 effectiveness of the proposed plan, including an average cost per
12 mile of services provided and an average cost per rider of
13 services provided.

14 (c) An economic impact analysis of the ratio of public
15 dollars expended on public transit services relative to the
16 amount of private dollars invested in the region as a result of
17 public transit services.

18 (d) A full accounting of all funding sources for the plan
19 and, if any new taxes or special assessments are called for, an
20 analysis of how much each individual taxpayer, participating
21 local municipality, and county will pay versus what they
22 currently pay for mass transit, and an analysis of how much of
23 the tax or special assessment will be returned to the individual
24 taxpayer, local municipality, and county in the form of public
25 transit services.

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

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

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

5 (4) Subject to the availability of funds, the authority shall
6 provide or contract to provide those services that are required
7 for the implementation and execution of the comprehensive
8 regional public transportation service plan. The authority may
9 contract with transportation operators within the region to
10 provide services that the authority considers necessary for
11 implementation and execution of the comprehensive regional public
12 transportation service plan.

13 (5) This subsection does not apply to any private transit
14 entities that have not contracted with the authority. If the
15 coordination of any of the following functions does not result in
16 the reduction in the number of represented employees employed by
17 SMART or DDOT, the authority shall coordinate all of the
18 following functions between different owners and operators of
19 public transportation facilities within the region relative to
20 transit services:

21 (a) Service overlap.

22 (b) Rates.

23 (c) Routing.

24 (d) Scheduling.

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

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

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

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

24 (9) Any dedicated funding stream proposal that involves
25 increasing an existing tax or implementing a new tax in the
26 region shall only be implemented if it is approved by a majority
27 vote of the electorate in each county in the region.

1 (10) A vote on a dedicated funding stream pursuant to
2 subsection (9) shall only be placed on the ballot by approval of
3 a majority of each county board of commissioners.

4 (11) A vote on a dedicated funding stream pursuant to
5 subsection (9) shall be held on the same day as the August
6 primary election in an even numbered year.

7 Sec. 5. (1) Subject to subsection (5), a county in the
8 region with a population of 750,000 or less that chooses not to
9 participate in the authority may withdraw from the authority by a
10 resolution of withdrawal that is approved by a majority vote of
11 the members of the county board of commissioners.

12 (2) Subject to subsection (5), a county in the region that
13 does not contain a city with a population of more than 750,000,
14 but is a county that has a population of more than 750,000, may
15 withdraw from the authority by meeting both of the following:

16 (a) Within 60 days, the county board of commissioners by a
17 2/3 vote adopts a resolution to place the question of withdrawing
18 from the authority on the ballot of the next regularly scheduled
19 November general election in the county. If the county seeking
20 withdrawal under this subsection has an elected executive under
21 1966 PA 293, MCL 45.501 to 45.521, or 1973 PA 139, MCL 45.551 to
22 45.573, the county executive may veto the resolution.

23 (b) A majority of the electorate within the county approves
24 of the question of withdrawal from the authority at the next
25 regularly scheduled November general election.

26 (3) Subject to subsection (5), a local governmental
27 consortium may withdraw from the authority by meeting both of the

1 following:

2 (a) Within 60 days, the governing board of the local
3 governmental consortium by a majority vote adopts a resolution to
4 place the question of withdrawing from the authority on the
5 ballot of the local governmental units in the local governmental
6 consortium.

7 (b) A majority of the electorate within the consortium
8 approves of the question of withdrawal from the authority at the
9 next regularly scheduled November general election.

10 (4) A county or local governmental consortium that withdraws
11 from the authority shall lose its seat on the board and shall
12 not, except on the unanimous affirmative vote of the board,
13 contract for public transportation services with the authority.

14 (5) If a county or local governmental consortium elects to
15 withdraw from the authority under this section, both of the
16 following apply:

17 (a) The county or local governmental consortium shall pay or
18 make provision to pay all of its obligations to the authority.
19 Beginning 60 days after the withdrawing county or local
20 governmental consortium gives notice of its intent to withdraw,
21 the withdrawing county or local governmental consortium shall
22 incur no further obligation to the authority until the withdrawal
23 has been completed. Obligations of a transit system within the
24 withdrawing county or local governmental consortium owed directly
25 to the authority are not obligations of the county or local
26 governmental consortium for purposes of this subsection. After
27 the county or local governmental consortium has withdrawn from

1 the authority, the state transportation department shall reduce
2 the level of state funding to the authority by the amount
3 allocable directly to the withdrawing county or local
4 governmental consortium and transmit those funds directly to the
5 withdrawing county or local governmental consortium.

6 (b) Any transit system within the withdrawing county or local
7 governmental consortium shall pay or make provision to pay all of
8 its obligations to the authority. After the county or local
9 governmental consortium has withdrawn from the authority, the
10 state transportation department shall reduce the level of state
11 funding to the authority by the amount allocable directly to that
12 transit system and transmit those funds directly to that transit
13 system.

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

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

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

20 (c) A resolution is adopted by a majority vote of the county
21 board of commissioners of the county requesting membership.

22 (2) If the county seeking membership under this section has
23 an elected county executive under 1966 PA 293, MCL 45.501 to
24 45.521, or 1973 PA 139, MCL 45.551 to 45.573, the county
25 executive may veto the resolution. The county board of
26 commissioners for the county seeking membership under this
27 section may override the veto by a 2/3 vote of the county board

1 of commissioners.

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

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

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

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

10 (d) Two members from each county in the region that has a
11 population over 1,750,000 so long as those members are not
12 residents of a city in that county that has a population over
13 750,000.

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

18 (2) The chief executive officer of each city that is entitled
19 to membership on the board shall select the members to represent
20 the city. The appointment of a board member shall require the
21 concurrence of a majority of the city council. The members that
22 are appointed and approved shall serve on the board at the
23 pleasure of the chief executive officer and can be removed from
24 the board by the chief executive officer at any time. A board
25 member appointed under this subsection shall be a resident of the
26 city that the board member represents.

27 (3) The chief executive officer of each county that is

1 entitled to membership on the board shall select the member or
2 members to represent the county. The appointment of a board
3 member shall require the concurrence of a majority of the county
4 board of commissioners. The members that are appointed and
5 approved shall serve on the board at the pleasure of the chief
6 executive officer and can be removed from the board by the chief
7 executive officer at any time. A board member appointed under
8 this subsection shall be a resident of the county that the board
9 member represents.

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

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

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

15 (a) Select and retain a chief executive officer of the
16 authority.

17 (b) Adopt bylaws and rules and procedures governing the board
18 meetings.

19 (c) Establish policies to implement day-to-day operation of
20 the authority.

21 (d) Review and approve the authority's capital and operating
22 budgets to assure that the budgets are reported and administered
23 in accordance with the uniform budgeting and accounting act, 1968
24 PA 2, MCL 141.421 to 141.440a.

25 (e) As required by state or federal law to receive or
26 disburse funds to SMART or any transit system in the region,
27 review, or review and approve, the capital or operating budgets

1 of SMART or that transit system.

2 (f) Conduct an annual audit in accordance with the uniform
3 budgeting and accounting act, 1968 PA 2, MCL 141.421 to
4 141.440a.

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

7 (h) Develop performance measures of the efficiency and
8 effectiveness of the provision of public transportation services
9 to the region.

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

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

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

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

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

22 (2) Except as otherwise provided in this subsection, the
23 board shall act by a majority vote of its membership that is
24 entitled to vote. A vote for the adoption of bylaws, for the
25 adoption of rules of procedure, or for the transaction of
26 business shall not be effective unless the vote includes at least
27 1 affirmative vote from a member that represents each city in the

1 authority that has a population of 750,000 or more and at least 1
2 affirmative vote from each county in the authority immediately
3 contiguous to each city in the authority with a population of
4 750,000 or more.

5 (3) The board shall meet regularly but not less than
6 quarterly.

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

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

18 (6) The board shall appoint a citizens advisory committee
19 that consists of region residents. Forty percent of the
20 committee shall be made up of users of public transportation. At
21 least 25% of the users of public transportation on the committee
22 shall be seniors or persons with disabilities. Two users of
23 public transportation from Wayne county, 2 users of public
24 transportation from Oakland county, 2 users of public
25 transportation from Macomb county, 2 users of public
26 transportation from each city in the authority region that has a
27 population of 750,000 or more, and 1 user of public

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

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

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

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

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

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

25 (8) The board may change the name of the authority by a
26 unanimous vote of the members. The board shall notify the state
27 transportation department within 10 days after a name change is

1 implemented.

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

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

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

16 Sec. 9. The authority may:

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

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

25 (c) Acquire and hold, by purchase, lease, grant, gift,
26 devise, bequest, condemnation, or other legal means, real and
27 personal property, including, but not limited to, franchises,

1 easements, and rights-of-way on, under, or above property within
2 the region. If there is no transit system established and
3 operating public transportation facilities within 10 miles beyond
4 any portion of the region, the authority shall have the powers
5 enumerated in this subdivision for 10 miles beyond that portion
6 of the region.

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

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

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

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

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

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

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

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

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

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

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

1 (4) The authority shall conduct a public hearing before the
2 implementation of changes to the fares charged for authority
3 services. A transcript of the public hearing shall be
4 transmitted to the board before consideration of proposed fare
5 changes.

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

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

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

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

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

25 (2) This state shall be entitled to a lien that shall take
26 precedence over all other liens in the amount of all the payment
27 of claims made by this state on behalf of the authority under

1 this section. The lien shall be on the assets of the authority.

2 Sec. 13. A community or group of communities in the region
3 may create citizen advisory councils to relate concerns to the
4 board on a regularly scheduled basis. Citizen advisory councils
5 shall be composed of members representative of the neighborhoods
6 within the community or group of communities.

7 Sec. 14. The authority created under this act shall not be
8 dissolved and its powers shall not be diminished except as
9 provided in this act.

10 Sec. 15. (1) In the exercise of its powers within the
11 region, the authority is exempt from all of the following acts:

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

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

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

17 (2) The authority is not a state officer or agency that has
18 powers of control or statutory or constitutional responsibility
19 within the meaning of section 11 of the urban cooperation act of
20 1967, 1967 (Ex Sess) PA 7, MCL 124.511.

21 Sec. 16. (1) By March 20, 2004, the board shall select and
22 retain a chief executive officer.

23 (2) The chief executive officer shall administer the
24 authority in accordance with the comprehensive regional public
25 transportation service plan, the operating budget, the general
26 policy guidelines established by the board, the applicable
27 governmental procedures and policies, and this act. The chief

1 executive officer is responsible for the supervision of all
2 authority employees.

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

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

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

11 Members and beneficiaries of any pension or retirement system
12 established by the acquired transportation system, and
13 beneficiaries of any of the benefits established by the acquired
14 transportation system shall continue to have rights, privileges,
15 benefits, obligations, and status under the acquired pension or
16 retirement system or benefits. The authority shall assume the
17 obligations of public transportation facilities or transit
18 systems that the authority acquires with regard to all of the
19 following:

20 (a) Wages and salaries.

21 (b) Hours and working conditions.

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

23 (d) Pension or retirement benefits, including retiree health
24 care benefits.

25 (3) No employee of an acquired transportation system who is
26 transferred to a position with the authority shall, by reason of
27 the transfer, be placed in a worse position with respect to any

1 of the following:

2 (a) Worker's compensation.

3 (b) Pension.

4 (c) Seniority.

5 (d) Wages.

6 (e) Sick leave.

7 (f) Vacation.

8 (g) Health and welfare benefits.

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

11 (4) Employees of the acquired transportation system who left
12 the acquired transportation system to enter into military service
13 of the United States shall have the same rights with respect to
14 the authority under 1951 PA 263, MCL 35.351 to 35.356, as they
15 would have had as employees of the acquired transportation
16 system.

17 (5) For federally funded activities, the authority shall
18 enter into and comply with the arrangements that the
19 U.S. secretary of labor certifies as fair and equitable in
20 compliance with 49 U.S.C. 5333(b).

21 (6) Before beginning to operate any new transit service or
22 public transportation facility or entering into any contract or
23 other arrangements for the operations of the transit service or
24 public transportation facility, the authority shall extend to the
25 employees providing public transportation services directly for
26 or by contract with the authority, in order of the employee's
27 seniority with the employee's employer, the first opportunity for

1 reasonably comparable employment in any new jobs with respect to
2 the operations for which the employee can qualify after a
3 reasonable training period. The authority shall provide for the
4 first opportunity required under this subsection in any contract
5 to operate a new transit service or public transportation
6 facility. Employers shall comply with all collective bargaining
7 agreements in accordance with the national labor relations act,
8 chapter 372, 49 Stat. 449, and the public employment relations
9 act of 1947, 1947 PA 336, MCL 423.201 to 423.217.

10 (7) The authority shall contract only with SMART and DDOT for
11 any public transportation or related service that SMART or DDOT
12 offered as of May 22, 2002 unless DDOT or SMART has been declared
13 ineligible for grant assistance under section 4(6) of this act.
14 Nothing in this act requires the authority to provide funds to
15 either DDOT or SMART beyond those received by the authority as
16 the designated recipient under section 4(2).

17 Sec. 18. (1) The authority shall not levy taxes. Except as
18 otherwise provided in this section, the authority shall not
19 pledge the credit or taxing power of the state or any political
20 subdivision. The authority may pledge the receipts of taxes,
21 special assessments, or charges that the state or a political
22 subdivision collects so long as the receipts of the taxes,
23 special assessments, or charges are returnable and payable by law
24 or contract to the authority. The authority may pledge the
25 pledge of a political subdivision of this state of its full faith
26 and credit in support of its contractual obligations to the
27 authority.

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

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

5 (b) Other income or revenue from whatever source available,
6 including, but not limited to, appropriations and contributions
7 and other revenue of the participating counties and political
8 subdivisions in the region.

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

11 (d) Grants, contributions, gifts, devises, or bequests from
12 any other source.

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

17 Sec. 19. (1) The chief executive officer shall prepare and
18 the board shall approve an operating budget and a capital budget
19 for the authority for each fiscal year. Each budget shall be
20 approved by the February 1 immediately preceding the beginning of
21 the fiscal year of the authority.

22 (2) The chief executive officer shall prepare and the board
23 shall approve a capital program and an operating budget to cover
24 5 years. The first capital program and operating budgets shall
25 be submitted to the board within 270 days after selection of the
26 chief executive officer of the authority. The chief executive
27 officer shall revise and update the capital program and operating

1 budgets on an annual basis and submit the revised capital program
2 and operating budgets to the board each fiscal year.

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

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

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

26 (3) Except as otherwise provided in this section, written
27 price quotations from at least 3 qualified and responsible

1 vendors shall be obtained for all purchases and sales of
2 \$50,000.00 or less but greater than \$5,000.00, or a memorandum
3 shall be kept on file showing that less than 3 qualified and
4 responsible vendors exist in the market area within which it is
5 practicable to obtain quotations.

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

8 (a) The purchase of unique articles.

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

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

12 (d) The rendering of professional services.

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

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

22 Sec. 21. Concessions for the sale of products or the
23 rendition of services for a consideration on authority property,
24 and renewal of any of those concessions, shall be awarded by the
25 authority only pursuant to written specifications after
26 competitive bidding to the highest responsible bidder under
27 procedures similar to those required under section 20. The

1 requirement for competitive bidding does not apply to a
2 concession involving the estimated receipt by the authority of
3 less than \$1,000.00 over the period for which the concession is
4 granted.

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

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

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

26 Sec. 23. Except as otherwise provided in this section,
27 claims that arise in connection with the authority shall be

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

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

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

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

24 Sec. 27. Notwithstanding any other provision of this act,
25 if an emergency financial manager has been appointed for the
26 authority under the local government fiscal responsibility act,
27 1990 PA 72, MCL 141.1201 to 141.1291, then that emergency

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

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

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

10 ARTICLE III

11 Sec. 30. (1) Beginning June 30, 2003, SMART, established in
12 the metropolitan transportation authorities act of 1967, 1967
13 PA 204, MCL 124.401 to 124.426, is continued under this article.
14 The chief executive officer of SMART and SMART board serving
15 under that act on June 30, 2003, shall continue as the first
16 chief executive officer of SMART and SMART board under this
17 article. The members of SMART are Oakland, Wayne, Monroe, and
18 Macomb counties.

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

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

1 2/3 vote of the county board of commissioners from the county
2 seeking to withdraw from SMART.

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

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

- 11 (a) Planning public transportation facilities.
- 12 (b) Designing public transportation facilities.
- 13 (c) Constructing public transportation facilities.
- 14 (d) Operating public transportation facilities.
- 15 (e) Administering public transportation facilities.
- 16 (f) Acquiring public transportation facilities.
- 17 (g) Contracting to provide public transportation facilities.
- 18 (h) Maintaining, replacing, improving, and extending public
19 transportation facilities.
- 20 (i) Exercising the powers of a public transportation
21 facility.

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

1 payment of claims for benefits arising under the worker's
2 disability compensation act of 1969, 1969 PA 317, MCL 418.101 to
3 418.941, against SMART during the time they were approved as a
4 self-insured employer. The state shall be entitled to a lien
5 which shall take precedence over all other liens on its portion
6 of the assets of SMART in satisfaction of the payment of claims
7 for benefits under the worker's disability compensation act of
8 1969, 1969 PA 317, MCL 418.101 to 418.941.

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

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

25 (2) The SMART board by a majority vote shall adopt bylaws and
26 rules of procedure governing its meetings. A majority vote for
27 the adoption of bylaws and rules of procedure and for the

1 transaction of business shall not be effective unless it includes
2 at least 1 vote from each county in which a city having a
3 population of 750,000 or more is located, and at least 1 vote
4 from each county immediately contiguous to that city.

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

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

15 (5) SMART may:

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

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

24 (c) Acquire and hold, by purchase, lease, grant, gift,
25 devise, bequest, condemnation, or other legal means, real and
26 personal property, including, but not limited to, franchises,
27 easements, and rights-of-way on, under, or above property within

1 the SMART region. If there is no authority or transit system
2 established and operating public transportation facilities within
3 10 miles beyond any portion of the SMART region, SMART shall have
4 the powers enumerated in this subdivision for 10 miles beyond
5 that portion of the SMART region.

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

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

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

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

19 (h) Contract with any unit of government or private
20 enterprise for service contracts, joint use contracts, and
21 contracts for the construction or operation of any part of the
22 transportation facilities.

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

25 (j) Elect to become a participating municipality for acquired
26 employees under section 34, pursuant to section 2c(2) of the
27 municipal employees retirement act of 1984, 1984 PA 427,

1 MCL 38.1502c.

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

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

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

15 (8) SMART may provide adequate transportation services to
16 citizens other than senior citizens, citizens with disabilities,
17 or citizens without the economic means to provide their own
18 personal transportation only to the extent it does not impair or
19 preclude SMART's obligations under subsection (7).

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

21 (a) Adopt bylaws and rules and procedures governing the SMART
22 board meetings.

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

25 (c) Review and approve the capital and operating budgets of
26 SMART to assure that the budgets are reported and administered in
27 accordance with the uniform budgeting and accounting act, 1968

1 PA 2, MCL 141.421 to 141.440a.

2 (d) Conduct an annual audit in accordance with the uniform
3 budgeting and accounting act, 1968 PA 2, MCL 141.421 to
4 141.440a.

5 (e) Employ a general manager of SMART.

6 Sec. 34. (1) The SMART board shall appoint a general
7 manager who shall be the chief executive and operating officer of
8 SMART. The general manager shall have management of the
9 properties and business of SMART and its employees. He or she
10 shall direct the enforcement of all resolutions, rules, and
11 regulations of the SMART board, and shall enter into contracts as
12 necessary under the general control of the SMART board. The
13 general manager shall serve at the pleasure of the SMART board.

14 (2) The general manager shall have the authority to appoint
15 officers, employees, and agents necessary to carry out the
16 purposes of SMART under the general policy direction of the SMART
17 board. The general manager shall classify all the offices,
18 positions, and grades of regular employment required under a
19 merit rating system; except that a maximum of 5% of the employees
20 and officers shall be exempt from the provisions of the merit
21 rating system.

22 Sec. 35. (1) The general manager shall prepare and the
23 SMART board shall approve a separate operating and capital budget
24 for each fiscal year. These budgets shall be approved at least
25 30 days before the beginning of each new fiscal year. In
26 addition, capital program and operating budgets shall be prepared
27 to cover periods of 5 years. These shall be revised and updated

1 annually before submission to the SMART board.

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

7 Sec. 36. SMART shall not levy taxes nor shall it pledge the
8 credit or taxing power of the state or any political subdivision
9 except for the pledging of receipts of taxes, special
10 assessments, or charges collected by the state or a political
11 subdivision and returnable or payable by law or by contract to
12 SMART and except for the pledge by a political subdivision of the
13 state of its full faith and credit in support of its contractual
14 obligations to SMART as authorized by law. Transportation
15 facilities shall be financed, in addition to other methods of
16 financing provided by law, by 1 or more of the following
17 methods:

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

19 (b) By other income or revenues from whatever source
20 available, including appropriations or contributions of whatever
21 nature or other revenues of the participating counties and
22 political subdivisions within the geographical boundaries of
23 SMART.

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

26 (d) By proceeds of taxes, special assessments, or charges
27 imposed pursuant to law and collected by the state or a political

1 subdivision and returned or paid to SMART pursuant to law or
2 contract.

3 Sec. 37. All claims that may arise in connection with SMART
4 shall be presented as ordinary claims against a common carrier of
5 passengers for hire. Written notice of any claim based upon
6 injury to persons or property shall be served upon SMART no later
7 than 60 days from the occurrence through which such injury is
8 sustained. Disposition of the claim shall rest in the discretion
9 of SMART, and all claims that may be allowed and final judgment
10 obtained shall be paid from SMART funds. Only the courts located
11 in the counties in which SMART principally carries on its
12 function are the proper counties in which to commence and try
13 action against SMART.

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

17 (2) SMART shall give a public notice of its intent to apply
18 for money from the comprehensive transportation fund to the
19 residents of the counties, townships, villages, and cities
20 affected by the local transportation program and shall make its
21 application available for a period of 30 days. All comments
22 received by SMART shall be transmitted to the board, the SMART
23 board, and the state transportation department along with the
24 application for funds.

25 (3) SMART shall conduct a public hearing before the SMART
26 board implements changes to the fares charged for the services
27 provided by SMART. A transcript of the public hearing shall be

1 transmitted to the SMART board before the consideration of the
2 fare changes.

3 Sec. 39. (1) SMART may borrow money and issue bonds to
4 finance and to carry out its powers and duties. The bonds shall
5 be payable from and may be issued in anticipation of payment of
6 the proceeds of any of the methods of financing as may be
7 provided by law. A political subdivision within the geographical
8 boundaries of SMART may contract to make payments,
9 appropriations, or contributions to SMART of the proceeds of
10 taxes, special assessments, or charges imposed and collected by
11 the political subdivision or out of any other funds legally
12 available and may pledge its full faith and credit in support of
13 its contractual obligation to SMART. The contractual obligation
14 shall not constitute an indebtedness of a political subdivision
15 within a statutory or charter debt limitation. If SMART has
16 issued bonds in anticipation of payments, appropriations, or
17 contributions to be made to SMART pursuant to contract by a
18 political subdivision having the power to levy and collect ad
19 valorem taxes, the political subdivision may obligate itself by
20 the contract, and thereupon may levy a tax on all taxable
21 property in the political subdivision, which tax as to rate or
22 amount will be as provided in section 6 of article IX of the
23 state constitution of 1963 for contract obligations in
24 anticipation of which bonds are issued, to provide sufficient
25 money to fulfill its contractual obligation to SMART.

26 (2) The bonds of SMART shall be issued and sold in compliance
27 with the revised municipal finance act, 2001 PA 34, MCL 141.2101

1 to 141.2821, except that the bonds may be issued for any period
2 of years, not exceeding 40 years.

3 (3) A political subdivision may advance or deliver property
4 to SMART to finance or carry out its powers and duties. SMART
5 may agree to repay the advances or pay for the property within a
6 period not exceeding 10 years, from the proceeds of its bonds or
7 from other funds legally available to SMART, with or without
8 interest as may be agreed to at the time of advance or
9 repayment. The obligation of SMART to make the payment or
10 repayment may be evidenced by a contract or note that may pledge
11 the full faith and credit of SMART. The contract or note that is
12 evidence of SMART's obligation shall not be an obligation under
13 the revised municipal finance act, 2001 PA 34, MCL 141.2101 to
14 141.2821.

15 (4) A political subdivision desiring to enter into a contract
16 under subsection (1) shall authorize, by resolution of its
17 governing body, the execution of the contract, which resolution
18 shall be published in a newspaper of general circulation within
19 the political subdivision, and the contract may be executed
20 without a vote of the electors on the contract upon the
21 expiration of 90 days after the date of the publication unless,
22 within the 90-day period, a petition signed by not less than 5%
23 of the registered electors residing within the limits of the
24 political subdivision is filed with the clerk of the political
25 subdivision requesting a referendum upon the execution of the
26 contract, and in that event the contract shall not be executed
27 until approved by the vote of a majority of the electors of the

1 political subdivision qualified to vote and voting on the
2 contract at a general or special election to be held not more
3 than 90 days after the filing of the petition.

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

8 (6) Notwithstanding any other provision of this section,
9 SMART shall not issue bonds, nor use the revenues of the sale of
10 bonds, for the construction, reconstruction, maintenance, or
11 operation of a subway unless approved by concurrent resolution by
12 the legislature.

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

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

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

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

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

22 (2) SMART shall be bound by existing collective bargaining
23 agreements with publicly or privately owned entities that are
24 acquired, purchased, or condemned by SMART. Members and
25 beneficiaries of any pension or retirement system established by
26 the acquired transportation system, and beneficiaries of any of
27 the benefits established by the acquired transportation system

1 shall continue to have rights, privileges, benefits, obligations,
2 and status under the acquired pension or retirement system or
3 benefits. SMART shall assume the obligations of public
4 transportation facilities or transit systems that SMART acquires
5 with regard to all of the following:

6 (a) Wages and salaries.

7 (b) Hours and working conditions.

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

9 (d) Pension or retirement benefits, including retiree health
10 care benefits.

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

15 (a) Worker's compensation.

16 (b) Pension.

17 (c) Seniority.

18 (d) Wages.

19 (e) Sick leave.

20 (f) Vacation.

21 (g) Health and welfare benefits.

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

24 (4) Employees of the acquired transportation system who left
25 the acquired transportation system to enter into military service
26 of the United States shall have the same rights with respect to
27 SMART under 1951 PA 263, MCL 35.351 to 35.356, as they would have

HB 4072 (H-4) as amended February 20, 2003

1 had as employees of the acquired transportation system.

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

6 (6) Before beginning to operate any new transit service
7 public transportation facility or entering into any contract or
8 other arrangements for the operations of the transit service or
9 public transportation facility, [SMART] shall extend to the
10 employees providing public transportation services directly for
11 or by contract with [] SMART, in order of the employee's
12 seniority with the employee's employer, the first opportunity for
13 reasonably comparable employment in any new jobs with respect to
14 the operations for which the employee can qualify after a
15 reasonable training period. SMART shall provide for the first
16 opportunity required under this subsection in any contract to
17 operate a new transit service or public transportation facility.
18 Employers shall comply with all collective bargaining agreements
19 in accordance with the national labor relations act, chapter 372,
20 49 Stat. 449, and the public employment relations act of 1947,
21 1947 PA 336, MCL 423.201 to 423.217.

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

1 (2) Except as otherwise provided in this section, all
2 purchases and sales in excess of \$50,000.00 shall be awarded
3 after advertising in a manner determined by the SMART board and
4 set forth in a written purchasing policy. Bids shall be publicly
5 opened and read aloud at a date, time, and place designated in
6 the invitation to bid. Invitations to bid shall be sent at least
7 1 week before the bid opening to at least 3 potential bidders who
8 are qualified technically and financially to submit bids, or a
9 memorandum shall be kept on file showing that less than 3
10 potential bidders who are qualified and responsible exist in the
11 general market area within which it is practicable to obtain
12 quotations.

13 (3) Except as otherwise provided in this section, written
14 price quotations from at least 3 qualified and responsible
15 vendors shall be obtained for all purchases and sales of
16 \$50,000.00 or less but greater than \$5,000.00, or a memorandum
17 shall be kept on file showing that less than 3 qualified and
18 responsible vendors exist in the market area within which it is
19 practicable to obtain quotations.

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

22 (a) The purchase of unique articles.

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

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

26 (d) The rendering of professional services.

27 (e) An emergency exists that directly and immediately affects

1 service or public health, safety, or welfare and that requires
2 immediate delivery of supplies, materials, equipment, or services
3 as determined under procedures approved and determined by the
4 SMART board.

5 (5) The SMART board shall expressly approve or deny in
6 advance the purchase of unique articles or articles that cannot
7 be obtained in the open market without competitive bidding if the
8 amount of the purchase in either case is in excess of
9 \$50,000.00.

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

18 Enacting section 1. This act takes effect June 30, 2003.

19 Enacting section 2. The metropolitan transportation
20 authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426, is
21 repealed effective June 30, 2003.

22 Enacting section 3. This act does not take effect unless
23 all of the following bills of the 92nd Legislature are enacted
24 into law:

25 (a) House Bill No. 4073.

26 (b) House Bill No. 4074.