

Legislative Analysis



STREET RAILWAY COMPANIES

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6542
Sponsor: Rep. Bert Johnson

House Bill 6545
Sponsor: Rep. Edward Gaffney, Jr.

House Bill 6543
Sponsor: Rep. Tom Pearce

House Bill 6546
Sponsor: Rep. Gabe Leland

House Bill 6544
Sponsor: Rep. Marie Donigan

House Bill 6547
Sponsor: Rep. Ed Clemente

Committee: Transportation

Complete to 11-6-08

A PRELIMINARY SUMMARY OF HOUSE BILLS 6542-6547 AS INTRODUCED 10-15-08

House Bill 6542 would revise Public Act 35 of 1867 and turn it into the Nonprofit Street Railway Company Act. Much of the current act would be eliminated or repealed. The act, as revised by the bill, would:

- Authorize the creation of a nonprofit corporation to operate a **street railway system** in certain cities with the consent of and subject to the regulations of the governmental agencies with jurisdiction over the public streets and highways on which the system operates. Such a system could use streetcars, trolleys, or trams, but not railroad trains. (The bill would apply to a city with an automated light rail system operating on an elevated single track loop of at least two miles under the Urban Cooperation Act; this is understood to apply to Detroit.)
- Allow the Department of Transportation to establish a special kind of **tax increment finance zone**, to be called a transit development finance zone, if the department determined such a zone was "necessary for the best interests of the public to promote and finance transit development." This would allow the street railway to use captured tax revenues from the growth in property values within the zone for the expenses of operating the system. Such a zone would be created only at the request of a street railway.
- **Limit the boundaries** of the transit development finance zone to no more than one mile in distance from a street railway system and require the Department of Transportation to consult with affected municipalities, counties, public transportation agencies, private transportation providers, and others before designating a zone. The DOT would create a zone by entering into an **agreement with affected municipalities** and the affected street railway, with the agreement

to contain a tax increment financing plan and an estimate of the estimated impact of tax increment financing on the assessed value of affected taxing jurisdictions.

- Stipulate that the "Legislature finds and declares that there exists in this state a **need to encourage the development of transportation facilities** by authorizing the acquiring, owning, constructing, furnishing, equipping, completing, operating, improving, and maintaining of nonprofit street railway companies and systems and that state assistance . . .[to] . . . nonprofit street railway companies and systems is declared to be a public purpose."
- Grant a street railway system the same power and right to obtain property under the Uniform Condemnation Procedures Act as a railroad has under the Railroad Code.
- Authorize a street railway to acquire property or rights or interest in property; to transport persons and property and receive just and fair compensation; erect and maintain buildings, structures, stations, depots, fixtures, and machinery; borrow money and issue bonds and notes; and mortgage property.
- Allow a **road authority** (the governmental agency with jurisdiction over roads) to establish and **prescribe rules and regulations** applicable to street railways regarding grading, paving, obstructing, or repairing of a street or highway, and regarding the construction, maintenance, or obstruction of public service facilities, including water, light, heat, power, sewage disposal, and transportation. The bill also contains provisions requiring street railway systems to conform to the grades of streets and highways and to lay and maintain track as prescribed by the road authority.
- Permit a street railway to **generate electricity and electric power** for its use and **sell electricity and electric power** to other persons and entities. (This authority would be subject to applicable law and any applicable regulations of a county, city, township, or village.)
- Establish **penalties** for certain violations. It would be a felony to (1) cause or attempt to cause the derailment of a streetcar, tram, or trolley of a street railway by placing an impediment on a track or (2) willfully endanger the life of a person working on or traveling the street railway. The penalty would be imprisonment for life or any number of years. It would be a misdemeanor to throw a stone, brick, or other missile at a streetcar, tram, or trolley of a street railway, punishable by a fine of not less than \$100 or more than \$500 and/or imprisonment for not less than 10 days or more than 90 days.

House Bill 6543 would amend the Nonprofit Corporation Act to include a reference to street railway systems created under the Nonprofit Street Railway Company Act. Under House Bill 6542, the Nonprofit Corporation Act would apply to a street railway unless it conflicted with the Nonprofit Street Railway Company Act.

House Bill 6544 would amend PA 51 of 1951 (which governs state appropriations for most transportation programs and is known as Act 51) to include street railways under the definition of "public transportation" and "comprehensive transportation" and to include street railway cars in the definition of "transit vehicles."

House Bill 6545 would amend the State Transportation Preservation Act (1976 PA 295) to allow the Department of Transportation to provide financial assistance to street railways.

House Bill 6546 would amend the Railroad Code to specify that it does not apply to street railways organized under the Nonprofit Street Railway Company Act.

House Bill 6547 would amend PA 51 of 1951 to require **the Governor and State Budget Director** to include in the annual budgets for fiscal year 2010-11 through fiscal year 2029-30 an appropriation from the Comprehensive Transportation Fund to a street railway equal to the difference between the annual operating expenses of the street railway and the revenues of the street railway (including any tax increment revenues).

FISCAL IMPACT:

We have not yet completed our analysis of the potential fiscal impacts associated with creation of tax/transit increment finance zones under House Bill 6542.

With regard to House Bill 6544 and House Bill 6547: The Comprehensive Transportation Fund (CTF) is a state-restricted fund created in Section 10b of Public Act 51 of 1951 (Act 51). The fund is restricted for public transportation purposes as defined in the act. House Bill 6544 would amend Section 10c of Act 51 to include "street railway" under the definition of "public transportation" and "street railway car" under the definition of "transit vehicle." The bill would put street railways within the definition a public transportation and thus eligible for state support from the CTF.

House Bill 6547 would amend Act 51 by adding a new section, Section 10f, to require the Governor and State Budget Director to include in the annual budgets for fiscal year 2010-11 through fiscal year 2029-30 an appropriation from the CTF to a street railway equal to the difference between the annual operating expenses of the street railway and the revenues of the street railway (including any tax increment revenues).

This requirement would effectively provide for the appropriation and expenditure of CTF revenue – assuming the Governor's budget request were enacted into law – to the non-profit corporation, or other entity established to operate a street railway, equal to the difference between the annual operating expenses of the street railway and the revenues of the street railway (including any tax increment revenues). The amount of the difference – and the potential state support – can not be determined at this time. The bill does not appear to provide a definition of "annual operating expenses" and does not appear to limit the amount of state reimbursement.

With regard to House Bill 6545: The State Transportation Preservation Act (1976 PA 295) was originally enacted at a time when railroad bankruptcies and the abandonment of unprofitable rail lines threatened Michigan with the loss of approximately 1,100 miles of track, representing over 35 percent of Michigan's rail freight system. To preserve rail service the State of Michigan, under authority of the act, acquired a number of these rail facilities (over 1,100 miles). While the state subsequently divested itself of much of this rail property, it still owns approximately 535 miles of active mainline railroad track. The department is authorized by the act to provide financial assistance for the maintenance of a railroad in the state. The bill would amend the act to also allow the department to provide financial assistance to a street railway. The bill is only permissive; it would establish no new requirements for the department and would have no direct fiscal impact.

Legislative Analyst: Chris Couch
Fiscal Analyst: William E. Hamilton

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