



Amalgamated Transit Union

Local 1093

436 N. Park, #N-6, Kalamazoo, MI 49007

Ph. (269) 343-1999 • Fax (269) 343-1999 • E-mail: atu1093@hotmail.com

**Testimony Before the Senate Transportation Committee
on Behalf of the Amalgamated Transit Union
Regarding Senate Bill 909
February 14, 2012**

The issue of creating a regional transit system in southeast Michigan is not new to this body. In fact, the Legislature has addressed this issue numerous times over the past two decades. The Amalgamated Transit Union is not opposed in principle to a regional public transit authority in southeast Michigan. We currently represent drivers at DDOT, and drivers, mechanics and other support staff at SMART. Our concern, therefore, concerns what happens to our members if their employer shifts from one entity to another.

Although Senate Bill 909 would not immediately create a unified transit authority in southeast Michigan, it is understood that the eventual goal would be a merger of DDOT and SMART under the umbrella of the newly created authority. In previous versions of this legislation, labor issues created by such a merger were addressed by the inclusion of language protecting current employees of DDOT and SMART should their employer cease to exist. There was an assurance that they would be transferred to become employees of the new entity, and their collective bargaining units and agreements would be honored by the new employer. We are very concerned that this language is not included in Senate Bill 909.

The ATU represents hundreds of employees at DDOT and SMART who would be at risk of losing not only their jobs, but their seniority and pension benefits as well should the new RTA acquire their current employers. There are no doubt many benefits to creating a unified transit system for southeast Michigan, and the ATU is not opposed to the concept. However, we cannot support legislation that places our members – some of whom have worked in this industry for nearly 30 years – at risk of losing everything for which they have spent their lives working.

Moreover, this should not merely be a concern for employees. For example, language in SB 909 forbids the new RTA to assume legacy costs of a system it acquires (unless specifically allowed by a vote of the people). If those costs are not transferred to the new employer, the existing systems will be forced to absorb them in full without a source of funding to pay for them. If SMART ceases to exist, who will pay for the pension and other post-employment benefits that have been contractually obligated? What happens to those workers on the cusp of retirement, or who have already retired?

In addition to the practical and ethical concerns of how employees should be treated, there is one other issue of which this committee should be aware. Senate Bill 909 designates the new authority as a recipient of federal operating and capital assistance grants. By doing so, the new authority will be required to guarantee that it abides by labor protections included in federal law. These include assurances of employment to the employees of acquired transit systems, the continuation of collective bargaining rights and agreements, the continuation of pension benefits, and protection of existing employees against a worsening of their position (a copy of the Labor Standards provisions is attached to



this testimony). Failure to abide by these rules could constitute a loss of over \$100 million per year in federal transit funds to southeast Michigan.

The creation of a regional transit system in southeast Michigan would no doubt bring benefits in the form of better management and coordination, as well as streamlined decision-making. The Amalgamated Transit Union's concern is that the workers not be lost in the shuffle if existing systems are merged or integrated into a regional system. We urge the committee to restore appropriate labor transfer language to SB 909 – not only to protect our members' rights – but also to ensure that the new authority remains in compliance with federal transit law.

TITLE 49--TRANSPORTATION

SUBTITLE III--GENERAL AND INTERMODAL PROGRAMS

CHAPTER 53--PUBLIC TRANSPORTATION

Sec. 5333. Labor standards

(a) **Prevailing Wages Requirement.**--The Secretary of Transportation shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed with a grant or loan under this chapter be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under sections 3141-3144, 3146, and 3147 of title 40. The Secretary of Transportation may approve a grant or loan only after being assured that required labor standards will be maintained on the construction work. For a labor standard under this subsection, the Secretary of Labor has the same duties and powers stated in Reorganization Plan No. 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and section 3145 of title 40.

(b) **Employee Protective Arrangements.**--(1) As a condition of financial assistance under sections 5307-5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b) of this title, the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5307-5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b) shall specify the arrangements.

(2) Arrangements under this subsection shall include provisions that may be necessary for--

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired public transportation systems;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11326 of this title.

(4) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and grant amendments which do not materially revise or amend existing assistance agreements, shall be certified without referral.

(5) When the Secretary is called upon to issue fair and equitable determinations involving assurances of employment when one private transit bus service contractor replaces another through competitive bidding, such decisions shall be based on the principles set forth in the Department of Labor's decision of September 21, 1994, as clarified by the supplemental ruling of November 7, 1994, with respect to grant NV-90-X021. This paragraph shall not serve as a basis for objections under section 215.3(d) of title 29, Code of Federal Regulations.

(Pub. L. 103-272, Sec. 1(d), July 5, 1994, 108 Stat. 835; Pub. L. 104-88, title III, Sec. 308(e), Dec. 29, 1995, 109