



QUESTIONS ABOUT THE GOVERNANCE OF REGIONAL AUTHORITIES IN MICHIGAN

In a Nutshell

- The Fourteenth Amendment to the U.S. Constitution requires that general purpose local governments adhere to the “one person, one vote” principle, i.e., elected government officials should represent roughly equal numbers of people.
- The governance of regional authorities, such as the Regional Transportation Authority (RTA) of Southeast Michigan, has not been required to adopt the “one person, one vote” principle. Regional authorities are generally governed by appointed boards representing the participating local governments.
- Regional authorities are created to provide a single government service (transit, fire protection, libraries, etc.), but when they possess policymaking, borrowing, and taxing authority, the question of governance becomes more relevant.
- Policymakers, and perhaps the courts, must decide whether governance of regional authorities is best served through appointments to the board by participating local governments or direct election of representatives based on the “one person, one vote” principle.

On November 8, 2016, voters in the Regional Transit Authority’s (RTA) four-county region (Wayne, Oakland, Macomb, and Washtenaw), rejected a transit millage that would have raised \$161 million to support transportation services throughout the region. When considering the RTA’s tax request, many voters may have looked at the structure of the RTA Board to ask whether board members would be accountable for the public resources raised and represent taxpayers. Imbedded in voters’ concerns about the use of tax dollars is a much more fundamental question related to the RTA’s unique governance structure; should a legislatively-created single-purpose special authority be treated similar to a general purpose local government for purposes of governance and to ensure accountability to taxpayers?

While local governments in every state are “creatures of the state” that can only undertake activities that the state government specifically authorizes, the types of local governments operating within each state vary in many important ways. Despite this variation, local governments are generally categorized into two groups: general purpose governments, which provide a broad range of services in

a number of functional areas; and special purpose governments, which are limited to provision of the service(s) for which they were authorized.

Multiple court cases decided predominantly in the 1960s established that general purpose local governments must adhere to the “one person, one vote” principle established by the Fourteenth Amendment to the U.S. Constitution. This principle holds that people must be represented equally by elected government officials making broad policy decisions (i.e., representative districts must be proportioned equally so that everyone’s vote counts the same).

Special purpose local governments (also referred to as special authorities), with the exception of school districts, are authorized by Michigan law as limited purpose or single-purpose units of government. Unlike general purpose local governments, their governance structure, powers, and degree of autonomy can vary. To date, courts have not held them to the same “one person, one vote” governance principle as general purpose local governments. The creation of the RTA in state law rather than through an interlocal

agreement, combined with the legislative powers allocated to its governing board and the significant level of taxation authorized to it, suggest that it closely resembles a general purpose local government; however, its governance structure does not adhere to the “one person, one vote” standard required of this type of government, raising questions of equal representation in the RTA.

In addition to apprehensions related to representation in governance, accountability concerns arise when special authorities represent local governments rather than people. Government accountability depends upon elected, as well as appointed, officials in government being held responsible for their decisions and actions by the people they represent.

As the RTA is currently structured, board members are accountable to the four counties and the City of Detroit rather than to the people of Southeast Michigan living within the authority’s region; whether this serves to provide sufficient accountability is a matter of opinion.

Given the prospect that the RTA may again approach voters with a millage request as early as November 2018, it is appropriate to reexamine the RTA and its governance structure, as well as regional authorities generally, to determine whether these organizations should represent governments or people and whether current governance structures keep them accountable to all taxpayers in their regions.

Regional Transit Authority of Southeast Michigan

The Regional Transit Authority was created as a single-purpose special authority in 2012 by Public Act (PA) 387 to address the unique challenges facing local transit in Southeast Michigan. One of the main goals of the RTA is to bring together the communities and transit providers throughout the region into one seamless transportation system working together to meet the needs of the region as a whole. The RTA has created a Regional Master Transit Plan for public transportation in Southeast Michigan and it facilitates the distribution of state and federal funding to the major mass transportation providers in the region.¹

History of Regional Transit in Southeast Michigan

The Southeast Michigan region can include a number of municipalities and counties, depending on the discussion. For purposes of this discussion, the region includes the four counties within the RTA’s jurisdic-

tion. This four-county region is the most densely populated area of Michigan, with a population of approximately 4.2 million people, and the largest major metropolitan area of the country without a true regional transit system.² Since the end of Detroit’s streetcar operations in the 1950s, regional leaders have attempted to implement a regional transportation system multiple times, but always failed due to the region’s divisive political and racial history.

In the 1960s, the state legislature passed the Metropolitan Transportation Authorities Act to form the Southeast Michigan Transportation Authority (SEMTA) with the task of merging the operations of numerous transit systems in the region.³ This proved difficult and SEMTA’s inability to levy taxes furthered its difficulties. In 1989, SEMTA was reorganized without the City of Detroit and renamed the Suburban Mobility Authority

¹ Regional Transit Authority of Southeast Michigan. Regional Master Transit Plan, August 2016 (www.rtamichigan.org/wp-content/uploads/FINAL-PLAN_August-2016-for-website.pdf).

² Ibid.

³ PA 204 of 1967.

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for Regional Transportation (SMART).⁴ In the 1990s discussions continued to consolidate the Detroit Department of Transportation (DDOT) and SMART, but failed again due to disagreements over board control and funding in Detroit versus the suburbs. In 2002, then-Governor Engler vetoed proposed Detroit Area Regional Transportation Authority legislation. Finally, in 2012, the state legislature was successful in establishing a regional transportation authority in Southeast Michigan.⁵

Today, the metropolitan Detroit area is served by two largely disconnected bus systems (DDOT and SMART); one light rail system (Detroit People Mover), which was originally meant to be one link in a regional transit system instead of a stand-alone transit option; and one streetcar line (QLine), owned and operated as a public-private partnership. The Ann Arbor area is served by its own bus system (Ann Arbor Area Transportation Authority or TheRide), which is completely disconnected from the other systems in the region. The RTA is tasked with facilitating regional cooperation in public transportation among these systems and throughout Southeast Michigan.

Governance of the Regional Transit Authority

Under state law, the RTA is governed by a board consisting of 10 members serving three-year, staggered terms. The board is chaired by a non-voting representative of the State of Michigan chosen by the governor. The nine voting members include: one representative from the City of Detroit chosen by the mayor and two representatives each from Macomb, Oakland, Washtenaw, and Wayne counties. The mayor of Detroit and the county executives in Macomb, Oakland, and Wayne counties appoint their RTA members while the county board in Washtenaw County appoints its representatives on the RTA board.

Through its state authorizing legislation, the RTA was given broad authority to acquire property, raise revenues to fund its activities, and issue self-liqui-

⁴ PA 481 of 1988.

⁵ Felton, Ryan, *Detroit Metro Times*. "How Detroit ended up with the worst public transit," March 11, 2014.

dating revenue bonds. The RTA can raise revenues through a number of sources, including the levy of an assessment (if approved by voters) and the collection of a motor vehicle registration tax. The RTA has no current ongoing source of income.

RTA board actions are made by a simple majority vote, except as follows:

1. The approval of at least seven of the nine voting board members is required if the board wants to place a question on the ballot to levy an assessment or to collect a motor vehicle registration tax. The seven board members approving such an action must include at least one representative of each county and the representative of Detroit. Further, the board needs the seven of nine majority to determine the rates and/or amounts to be requested from voters.
2. The unanimous approval of all voting members is required if the board wants to acquire, construct, operate, or maintain any form of rail passenger service or acquire a public transportation provider. Further, the unanimous approval of the board to place the question on a ballot for voters to ultimately decide is required if the board wants to acquire a public transportation provider and accept responsibility for any of its legacy costs.

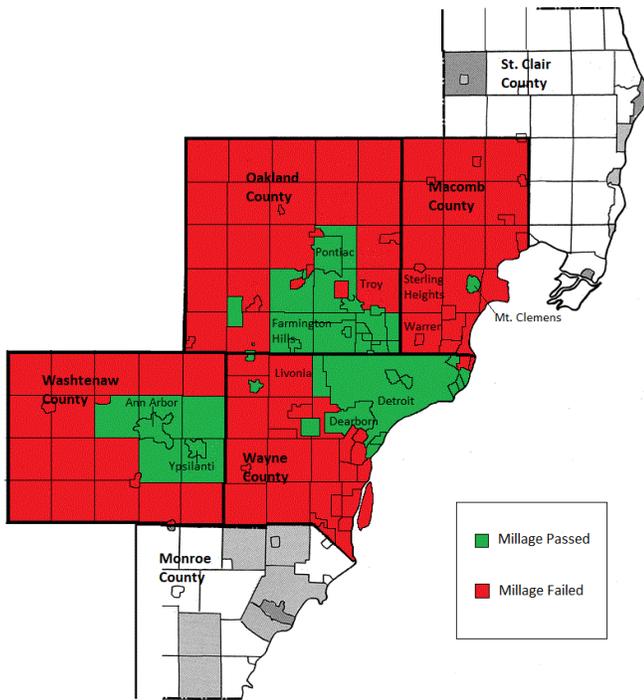
These supermajority vote requirements were included in response to governance concerns stated by county representatives.

Transit Millage

On November 8, 2016, voters in the four-county region rejected the RTA's request to levy a new 1.2-mill tax (one mill is equal to a dollar of tax for every \$1,000 of taxable value). The RTA request was voted on by the four-county region as a single entity, not on a county-by-county basis. If each county had voted on the measure individually, it would have passed in Wayne and Washtenaw counties and failed in Oakland and Macomb counties.

Map 1

Regional Transit Authority Tax Pass/Fail by Community



Source: Macomb, Oakland, Washtenaw, and Wayne County Clerks Offices, Election Results

Map 1 shows that the communities in support of the tax were the more urban communities close to the city centers of Detroit and Ann Arbor, with commu-

nities further from the urban center voting against the tax. Only one community in Macomb County, the City of Mt. Clemens, supported the RTA property tax millage with it being defeated throughout the county by over 60 percent of the vote. Results were closer in Oakland County, with the millage failing by 50.1 percent of the vote.

As it was voted on, the tax would have been levied throughout the four-county region with no opt-out. **Table 1** shows that for the first fiscal year (FY2017), the tax would have generated approximately \$161 million in total, with the breakdowns by county highlighted. The total and per capita amounts raised in each county reflect both county population and county taxable values. State law and the RTA’s regional plan include a requirement that at least 85 percent of all funds raised in each county must be spent on services in that county. The tax would have funded four bus rapid transit (BRT) routes, a rail line from Ann Arbor to Detroit, a unified fare card system, and shuttle service to the Detroit Metropolitan Airport, among other things.⁶ The RTA board must wait two years before it may ask voters to support another tax levy (November 2018 general election is the earliest).⁷

⁶ Fleming, Leonard N., *The Detroit News*. “Transit debate rolls on after tax rejection,” Dec 12, 2016; and Regional Transit Authority’s Regional Master Transit Plan.

⁷ See Citizens Research Council Memorandum 1143, *Southeast Michigan Ballot Issues: The Regional Transit Authority Millage Request*; www.crcmich.org/PUBLICAT/2010s/2016/southeast-michigan-regional-tax-authority-millage-2016.pdf for more information.

Table 1

Fiscal Year (FY) 2017 RTA Millage by County

County	2016 County Population	Contributions to RTA Tax by County	Approximate Funds Raised by Millage in FY2017	Approximate Millage Per Capita in FY2017
Oakland County	1,243,970	39.9%	\$64,239,000	\$51.64
Wayne County	1,749,366	29.5%	\$47,495,000	\$27.15
Macomb County	867,730	19.1%	\$30,751,000	\$35.44
Washtenaw County	<u>364,709</u>	<u>11.5%</u>	<u>\$18,515,000</u>	<u>\$50.77</u>
Total	4,225,775	100.0%	\$161,000,000	\$38.10

Source: U.S. Census Bureau, 2016 Population Estimates; Michigan Department of Treasury, 2016 Taxable Value

Recent Regional Millage Requests in Southeast Michigan

The RTA tax request came after a number of recent regional millage requests to support the SMART, Detroit Institute of Arts, and Detroit Zoo were voted on in Southeast Michigan. Two main differences between those requests and the RTA request are 1) they were all voted on county by county, not as a multi-county single regional entity, and 2) they all passed.

The [Suburban Mobility Authority for Regional Transportation \(SMART\)](#) serves 76 communities in Wayne, Oakland, and Macomb counties with an area covering more than 1,100 square miles. It was created under the Metropolitan Transportation Authorities Act of 1967 as the Southeastern Michigan Transportation Authority (SEMTA), but was reorganized in 1989 without the City of Detroit. The SMART is governed by a seven-member board of directors, with two members each appointed by Macomb, Oakland, and Wayne counties and one member appointed by Monroe County. The SMART provides bus services, as well as some door-to-door paratransit and dial-a-ride services.

In August 2014, voters in Macomb, Oakland, and Wayne counties approved a millage increase from 0.59 mills to 1.0 mill to fund SMART services for four years. The SMART tax is actually three taxes levied individually by each county, not a tax levied by the authority. The counties transfer the funds raised by the tax to the SMART and do not possess any power to control how those tax dollars are spent. Macomb County levies the SMART millage county-wide, but individual communities are granted the authority to “opt out” of participation in the tax (and resulting services) in Oakland and Wayne counties (Oakland County has 38 communities that have voted to “opt out” and 24 that “opt in” and Wayne County has 16 communities “opt out” and 27 “opt in”). This option to “opt out” of service may help millage requests pass (those communities that do not support the millage can simply “opt out”), but it creates service gaps in a regional bus system.

The [Detroit Institute of Arts \(DIA\)](#), which was founded in the 1880s and has holdings that range from ancient Egyptian, Greek, and Roman artifacts to contemporary American masterpieces, was facing major revenue shortages in recent years due to its small endowment and the loss of state support and support from the City of Detroit.¹

In order to preserve the organization and prevent further budget cuts, the DIA requested support from property taxpayers in Wayne, Oakland, and Macomb counties in exchange for some benefits to county residents, including free unlimited general admission to the museum, discounted special exhibition tickets, free school field trips with free bus transportation, free group visits for seniors on Thursdays with free bus transportation, expanded teacher professional development programs, curriculum development with school systems, and expanded community partnerships. In August 2012, voters in independent votes in the three counties approved a 10-year 0.2 mill property tax to fund the DIA.

The [Detroit Zoo](#) was founded in 1928 and is home to over 2,000 animals of 240 species and 125 acres of expansive, naturalistic animal habitats. The zoo, like the DIA, suffered cuts in funding from the City of Detroit and state grants, and turned to local taxpayers to provide the needed funds to support its operations. In 2008, residents in the three-county region approved a tax in each county to support the zoo. In 2016, voters in each county approved a 10-year renewal of the 0.1 mill property tax.

¹ Cohen, Patricia; *The New York Times*. “Suburban Taxpayers Vote to Support Detroit Museum,” August 8, 2012.

Courts Weigh In

Questions surrounding the constitutionality of the RTA governance structure are at issue because of a number of precedent-setting U.S. Supreme Court decisions in the 1960s. In 1964, the U.S. Supreme Court rendered a decision that both houses of a bicameral state legislature must be divided up substantially on a population basis, establishing the “one person, one vote” principle for purposes of representation.⁸ This decision provided clarity for congressional and state legislative elections, but it was originally unclear how the standard affected representation at the sub-state level (e.g., county government).

Before this decision, the 1963 Michigan Constitution continued the practice of earlier Michigan constitutions of establishing county governance under boards of supervisors. These bodies were to consist of one member from each organized township within a county and representation from cities as provided by law. With equal representation granted to all townships, the vote of a supervisor representing a township with a population of 1,000 was equal to the vote of a supervisor from a township of 10,000; and the number of people represented by board members from cities could be wholly different.

In reaction to the U.S. Supreme Court’s “one person, one vote” decisions, the Apportionment of County Boards of Commissioners Act provided for the election of county commissioners from single-member districts.⁹ The Michigan Supreme Court advisory opinion on the constitutionality of this act held that

federal constitutional provisions invalidated the state constitutional requirements that county boards be comprised of one supervisor from each township, and therefore upheld the requirements of the Apportionment of County Board of Commissioners Act.¹⁰

County boards of commissioners are now smaller than their predecessor board of supervisors, include the partisan election of commissioners, and are representative of people rather than units of government. County commission election districts are drawn to be as nearly equal in population as is practicable based on the latest official published decennial U.S. census. They are to be contiguous, compact, of as nearly square shape as is possible. Finally, they must respect township, village, and city boundaries, and are not to be drawn to effect partisan political advantage.

Similarly, the Home Rule City Act, Public Act 279 of 1909, was amended in 1966 to provide that city councils or commissions, the members of which are elected from wards, must use the latest official published decennial U.S. census data to create wards which must be as nearly of equal population as is practicable and contiguous and compact.¹¹

⁸ Reynolds v Sims (377 U.S. 533; 1964).

⁹ PA 261 of 1966.

¹⁰ The first opinion (Advisory Opinion re Constitutionality of Public Act 261 of 1966 (379 Mich 55; 1966)) held that the statute violated Article VII, Section 7 of the state constitution, which states that county governance is established under boards of supervisors consisting of one member from each township and representation from cities as provided by law. The second opinion was Advisory Opinion re Constitutionality of Public Act 261 of 1966 (380 Mich 736; 1966).

¹¹ PA 182 of 1966.

Governance Questions Raised by Regional Authorities in Michigan_____

In light of Michigan’s 50-year history of adhering to the “one person, one vote” standard for the selection of county boards of commissioners and city councils, as well as the diversity of regional authorities established in recent years, a number of important questions related to regional authorities’ governance structures need to be addressed.

What is the difference between general purpose units of local government and special purpose governments?

The U.S. Census Bureau differentiates special purpose governments from other government types in three ways:

1. Special purpose governments must be fiscally and administratively independent from any other entity (i.e., must have the power to make all financial decisions and have a popularly elected or appointed board that is distinct from any parent government).
2. They must show an existing organizational structure (i.e., must provide evidence of current activity and possess corporate powers).
3. They must demonstrate government character (i.e., perform functions, such as the power of taxation, that are generally perceived as governmental in nature).¹²

Michigan had 443 special districts in 2012 according to the U.S. Census of Governments.¹³

Special authorities are limited purpose governments that exist as separate corporate entities created for the purpose of combining local government resources to achieve a common goal desired by each of the involved governments. Article VII, Section 27 of the

¹² Martin, Joseph and Bradshaw, Nicole. Michigan State University Extension White Paper, *Intergovernmental Cooperation in Michigan: A Policy Dialogue, White Paper D, Special Districts: A Growing Trend. Does the State Want to Encourage or Discourage the Activity?* citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.517.774&rep=rep1&type=pdf

¹³ U.S. Census Bureau, American FactFinder factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF

1963 Michigan Constitution provides that the state legislature may establish metropolitan governments and authorities designed to perform multipurpose functions or a single function. Multiple state laws pertaining to a number of governmental services (e.g., transportation, waste disposal, parks, etc.) provide for the creation of special authorities and for their organization, powers, and duties.¹⁴ State law provides special authorities with substantial fiscal and administrative independence from general purpose units and other special purpose local governments. The jurisdiction of these authorities overlaps existing boundaries of other general purpose or special purpose units. Based on these qualifications, the RTA is organized and governed as a special purpose governmental unit.

In contrast, counties are general purpose units of local government. Courts have ruled that county board members should represent their communities based on population. The decision in *Avery v. Midland County, 390 U.S. 474 (1968)* provides some fundamental standards that can be applied in examining how people are represented by the governance structure of the RTA and other regional authorities:

- Local units with general governmental powers over an entire geographic area may not, consistent with the Equal Protection Clause of the Fourteenth Amendment, be apportioned among single member districts of substantially unequal population.
- The Equal Protection Clause reaches the exercise of state power, whether exercised by the state or a political subdivision.
- Although the state legislature may itself be properly apportioned, the Fourteenth Amendment requires that citizens not be denied equal representation in political subdivisions which also have broad policymaking functions.

¹⁴ See Citizens Research Council of Michigan Report 346: *Authorization for Interlocal Agreements and Intergovernmental Cooperation in Michigan*, April 2007, a ready reference guide to the laws authorizing intergovernmental cooperation among local governments in Michigan.

- Finally, county boards have the power to make a large number of decisions having a broad impact on all the citizens of the county.¹⁵

It would seem that the RTA does possess broad policymaking authority, albeit as it pertains to a single governmental service. Unlike some single-purpose special authorities that play more of an administrative than a legislative role, the power to tax, set routes, and apportion federal funds, among other powers sets the RTA apart from some other special authorities.

Would regional authority boards be more accountable to constituents if they represented people instead of governments?

The four-county RTA is governed by appointees to a board representing units of government, not population. **Table 2** shows the different unit's population and the number of RTA board appointees for each unit of local government represented on the RTA board.

The requirement of a supermajority vote and of a "yes" vote from at least one representative of each unit, rather than a simple majority, to pass certain policy changes further complicates the governance structure. For example, it is possible that "no" votes from the two Washtenaw County appointed board members could disallow a policy change even if the rest of the board approves it. These two board members represent 20 percent of the board and their county's population represents only 8.6 percent of the region's total population. Washtenaw County is used as an illustration of the issues associated with equal representation raised by the RTA governance model because it is the smallest county. It is the case that any single county's two appointees (or the City of Detroit's one appointee) could stop proposed policy changes from taking effect via their "no" votes.

On the one hand, popular election of an RTA board, as opposed to an appointed body that represents governments, would create clear lines of accountability for the taxes levied and the use of those resources. The board would have to report to the citizenry and stand to account for their actions at the

ballot. Rather than representing the governmental units within the authority's region, the board would be representing the people that live in the four county region and it could be argued that this would enhance the board's accountability to the voters and taxpayers.

On the other hand, such a change would lessen the relationship between the RTA board and the counties and municipalities within the RTA region. The move from county boards of supervisors to county boards of commissioners in the 1960s created a change in governance at the local level. Because members of the boards of supervisors represented local governments, the county board meetings routinely brought together local government officials with the opportunity to discuss service provision. The move to independently elected county commissioners reduced counties' connection to local units. Where supervisors were inherently prepared to address the needs of the local governments they represented, county commissioners tend to be aware of the needs of the local governments in their county only when they make special efforts to learn of those needs.

Direct election of RTA board members would lead to a shift similar to the one experienced with county boards. Rather than a special authority made up of and representing the governmental units in the region, it would become a more partisan board representing all people within its geographic region.

It is also important to note that direct election and equal representation of voters is not practiced in all forms of general government: the United States Senate does not observe the "one person, one vote" standard. In an effort to give all states equal representation in one branch of the federal government, each state elects two U.S. Senators regardless of the state's population.

Was the RTA's governance structure a contributing factor to the November millage vote failing?

The funding question before the voters in Southeast Michigan in fall 2016 was related to regional public transportation, but it could have easily been another regional public service needing funding before the

¹⁵ Avery v. Midland County (390 U.S. 474; 1968) supreme.justia.com/cases/federal/us/370/474/

Table 2

RTA Governmental Units

<u>Unit of Government</u>	<u>2016 Population Estimate</u>	<u>Number of Members on RTA Board</u>	<u>Population per RTA Board Member</u>	<u>Percent of Total Population per Vote</u>
Macomb County	867,730	2	433,865.0	10.3
Oakland County	1,243,970	2	621,985.0	14.7
Washtenaw County	364,709	2	182,354.5	4.3
Wayne County	1,749,366		874,683.0	
Wayne County w/o Detroit	1,076,571	2	538,285.5	12.7
City of Detroit	672,795	1	672,795.0	15.9

Source: U.S. Census Bureau Quickfacts, www.census.gov/quickfacts/table/PST045215/00

voters (e.g., regional parks, water, etc.). These regional authority governance models, like the RTA governance structure, are set up to represent local governments, not local voters. When governance models are set up to dilute voter representation, are they set up for failure at the ballot? If the RTA board represented people rather than governments, would it have crafted a funding and operating proposal that would have been met with more success at the ballot?

It is impossible to answer these questions in the definitive because it is unclear who would be popularly elected to the boards and what their transportation priorities would be. What is clear is that popularly elected board members would be more closely connected to the people living within the RTA's voting district. Popularly elected office holders are more representative of the voters that put them in office than appointed officials placed in a position to represent the interests of a governmental unit. Additionally, these officials are directly held to account for their actions while serving; if they are not responsive to voters concerns, then they could be voted out of office.

It is important to note that popularly elected board members, rather than appointed board members, may or may not possess the expertise related to public transportation (or whatever other public service a regional authority might be created to address) that appointed officials are likely to possess. Officials are

generally appointed to boards due to their expertise and experience related to an issue; officials can be elected to boards for their expertise and experience, or due to their political viewpoints and acumen. Depending on who is elected, rather than appointed, it could affect the quality of policy proposals, as well as their ability to meet with voter acceptance.

Why hasn't the "one person, one vote" standard been applied to other regional entities?

The RTA is just the most recent example of a multi-county entity created in Southeast Michigan to serve regional needs and fund quality of life services.

The **Detroit Regional Convention Facility Authority (DRCFA)**, has run the Cobo Center in Detroit since 2009 and it is governed by a five-member board appointed by the governmental units in the region it serves (not based on population). The DRCFA was created under a collaborative agreement among the State of Michigan, the City of Detroit, and the metropolitan area counties (Macomb, Oakland and Wayne). The DRCFA was given authority over the broad policy direction and day to day operational procedures for the Cobo Center for the purposes of improving and expanding the facility; it raises revenue through the operation of the Cobo Center and has no taxing authority.¹⁶ It is a collaboration among governments and is governed as one.

¹⁶ PA 63 of 2009 and PA 554 of 2008, Regional Convention Facility Authority, MCL 141.1351-141.1379.

The **SMART** is a regional transit authority organized under the Metropolitan Transportation Authorities Act of 1967, which allows for metropolitan or regional transportation authorities to be established in major metropolitan areas if one or more contiguous county elects to participate in an authority.¹⁷ The SMART is governed by a seven-member board of directors, with two members each appointed by Macomb, Oakland, and Wayne counties and one member appointed by Monroe County. The act allows authorities to do many things (e.g., adopt rules; plan, acquire, and operate public transportation facilities; fix rates, fares, and charges; and contract with other governmental units or the private sector, among other things), but it does not allow authorities to levy taxes. They may be funded by the proceeds of taxes, special assessments, or charges collected by the state or a political subdivision and paid to the authority pursuant to law or contract.

The SMART tax is levied across Wayne, Oakland, and Macomb counties (see Box on page 6 for more information). This is actually three taxes levied individually by each county, with individual communities granted the authority to “opt out” of participation in the tax in Oakland and Wayne counties. The counties do not possess powers to control how the tax dollars are spent. The funds are transferred to the SMART for its use.

The **Huron Clinton Metro Authority (HCMA or Metroparks)** was created before the “one person, one vote” principle was established. It is a regional special authority encompassing Wayne, Oakland, Macomb, Washtenaw, and Livingston counties. It was sanctioned by the state legislature in the Huron-Clinton Metropolitan Authority Act, and approved by the voters in 1940.¹⁸ It is governed by a seven-member board of commissioners; two are appointed by the governor from the district at-large and five are selected by the boards of commissioners or county executives from each county (one per county).

The state authorizing legislation gives the HCMA the power to levy not more than one-quarter mill property tax (0.25 of 1 mill). The authority also receives funding from vehicle entry fees and other

user fees and may issue self-liquidating bonds. Early in the life of the HCMA, the Wayne County Board of Supervisors (which would now be the Wayne County Board of Commissioners) filed suit against the authority questioning its legal power to levy a quarter mill property tax.¹⁹ The legal question was resolved by the courts in favor of the HCMA and in 1942, the HCMA began collecting funds and acquiring and developing parks.²⁰

The **Great Lakes Water Authority (GLWA)** is a regional water authority in Southeast Michigan consisting of the City of Detroit and Macomb, Oakland, and Wayne counties. It was launched in 2016 and has management and control of regional water and wastewater services. Detroit and other communities throughout the region retain control of water and sewer services within their jurisdiction limits. The GLWA was organized under the provisions of the Municipal Sewage and Water Supply Systems Act.²¹ It is governed by a six-member board: two members appointed by the Mayor of Detroit; one member appointed by the county executive in Macomb, Oakland, and Wayne counties; and one member appointed by the governor. The GLWA does not have the authority to levy taxes; it raises revenue through rate charges and fees.

Governance Differences. The key difference between the RTA and these other regional entities rests with the powers allocated to the transit authority. Where others have taxes levied on their behalf by the counties or raise revenues from other sources, the RTA was granted taxing authority (the HCMA has limited taxing authority as well). The RTA possesses the authority to issue bonds to be repaid with federal grants and tax generated resources. Only the GLWA possesses similar powers to issue bonds, but those sums will be repaid with water and sewer fees. It may not levy taxes to repay those bonds. In other words, the RTA has been allocated a broad range of legislative powers akin to general purpose governments, where the other regional entities discussed primarily possess administrative powers.

¹⁷ PA 204 of 1967.

¹⁸ PA 147 of 1939.

¹⁹ Metropolitan Authority v Bds of Suprs (300 Mich 1; 1942).

²⁰ See organization history of HCMA for more information, <https://www.metroparks.com/history/>

²¹ PA 233 of 1955.

That being said, the RTA is not the only regional authority with the ability to levy taxes and make policy decisions. A number of state statutes give metropolitan authorities the ability to levy taxes (e.g., the Metropolitan District Act and the Public Transportation Authority Act, among others).²² The range of policymaking and taxing authority varies across regional governmental entities.

The broader an authority's policymaking, borrowing, and taxing authority, the more relevant the question of governance becomes. If an authority is simply providing administration for a regional entity and legislative policymaking rests with traditional general purpose governments, then the "one person, one

vote" principle is being applied. If an authority is making policy and taxing decisions (even if the tax levy requires voter approval), then the "one person, one vote" principle may not be properly applied.

The question, which may need to be answered by the courts, comes down to this: does a public authority providing a public service (e.g., public transit) with broad policymaking powers that include levying taxes and issuing bonds need to be held to the same "one person, one vote" standard that general purpose units of local government are held to? Is it sufficient that these public authorities represent the local governments that are in their service area?

Conclusion

The questions raised by the governance structures of the various regional authorities operating in Michigan are not easily answered. Distinct differences do exist between general purpose units of local government and special purpose units of government. These questions take on more relevance in light of the most recent addition to the list of such bodies, the Regional Transit Authority of Southeast Michigan. This regional transit organization is a legislatively created single-purpose special authority that possesses some powers commonly associated with general

purpose local governments. That being said, direct election of RTA board members, as well as board members of other regional authorities, will change the composition and dynamics of these boards and could lead to more partisan boards that lack technical expertise. Ultimately, state policymakers, and perhaps the courts, must decide if accountability is best served through appointments to the board by participating local governments or direct election of representatives based on the "one person, one vote" principle.

²² PA 312 of 1929 and PA 196 of 1986.

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