

**SPONSORS MEMO: DRAFT**

**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:**

**SPONSOR:** DILAN, PERKINS

**TITLE OF BILL:**

An act to amend the amend the vehicle and traffic law, in relation to supplemental learners permits (Part A); to amend the vehicle and traffic law, in relation to the metropolitan transportation district supplemental registration fee (Part B); to amend the tax and administrative code of the city of new York, in relation to the metropolitan commuter transportation mobility tax; and to repeal certain provisions of the tax law relating thereto (Part C); to amend the tax law, in relation to the metropolitan transportation district transportation surcharge (Part D); to amend the tax law, in relation to a supplemental tax on passenger car rentals (Part E); to amend the state finance law, in relation to the metropolitan transportation authority financial assistance fund (Part F); and to amend the public authorities law, in relation to metropolitan transportation authority reporting requirements, in relation to authorizing the merger of the positions of executive director and chair of the metropolitan transportation authority, in relation to the promotion and use of qualified transportation fringes, in relation to project labor agreements, in relation to legislative oversight of the metropolitan transportation authority, in relation to regulation of metropolitan transportation authority finances, in relation to the independent audit of the metropolitan transportation authority, and the publication of financial information, in relation to audits of the metropolitan transportation authority, in relation to biennial reports by the metropolitan transportation authority to certain legislative committees on the condition of the authority, in relation to the fiduciary responsibility of board members, in relation to the capital plans of the metropolitan transportation authority and the powers and duties of the metropolitan transportation authority capital program review

board, and in relation to whistleblowers on contracted projects of the metropolitan transportation authority (Part G).

**PURPOSE OR GENERAL IDEA OF BILL:**

To increase the accountability, openness and transparency of the authority, with respect to its operations, capital plans and budgets, in order to increase public awareness of and participation in the activities of the authority.

**SUMMARY OF SPECIFIC PROVISIONS OF PARTS A TO F:**

**Part A** would impose a supplemental fee ranging from twenty-five to thirty percent of the current state fee **for** driver's licenses and learner's permits issued within the metropolitan commuter transportation district.

**Part B** would impose a supplemental fee of twenty-five dollars per year on the registration and re-registrations of motor vehicles within the metropolitan commuter transportation district.

**Part C** would impose a payroll tax ranging from 0.34 percent to 0.25 percent on payrolls within the metropolitan commuter transportation district.

**Part D** would impose a surcharge of one dollar on the use of taxi services within the metropolitan commuter transportation district.

**Part E** would impose an additional sales tax of 5 percent on the rentals of automobiles within the metropolitan commuter transportation district.

**Part F** would create the Metropolitan Transportation Authority Financial Assistance Fund.

**SUMMARY OF SPECIFIC PROVISIONS OF PART G:**

**Section 1** would amend section 553-e(11) of the public authorities law to revise a cross-reference.

**Section 2** would add new defined terms to the public authorities law.

**Section 3** would amend section 1263(1)(a)(1) of the public authorities law with regard to board membership of the authority. It would expand the board from sixteen to eighteen voting members; the speaker of the assembly and the temporary president of the senate would recommend one voting board member each to the governor.

**Section 4** would amend section 1263(4)(a) of the public authorities law to make clear that the chairman of the authority is its chief executive officer, and may appoint other officials, including an executive director, who are deemed necessary.

**Section 5** would add a new section 1268-a of the public authorities law requiring the authority to promote broad usage of qualified transportation fringe benefits, now provided for the authority by TransitChek.

**Section 6** would amend section 1269-b(2), (3) and (7) and add a new section 1269(b)(2-a) of the public authorities law.

Section 1269-b(2) would be amended to provide that the five-year capital plan of the authority must detail minority- and women-owned business enterprises, among other things.

A new subsection 2-a of section 1269-b of the public authorities law would provide that at least sixty days before it submits its capital program plans to the metropolitan transportation authority capital program review board for the ensuing five-year period, the authority is to provide draft copies of them to the speaker of the assembly, the temporary president of the senate, and the joint corporation and transportation committees of the senate and assembly. Within thirty days, the legislature may strike any capital elements from the plans, but cannot add any capital elements to them. Then, the authority is to reformulate the plans as appropriate, and submit them to the metropolitan transportation authority capital program review board.

Subsections 3 and 7 of section 1269(b) of the public authorities law would provide that the capital program review board, in examining proposed authority five-year capital plans and amendments thereto that are submitted by the authority, may, instead of disapproving those plans because of capital elements that the review board finds unacceptable, advise the authority

promptly that the review board is prepared to approve the plan if the authority can satisfactorily reformulate it without those elements

**Section 7** would add new sections 1269-e, f, g and h of the public authorities law.

(1) *Section 1269-e* would require the authority, within 30 days after the annual submission of its independent audit, to provide a report in plain English on its website and to give it to the governor, the speaker of the assembly and the temporary president of the senate. The report is to explain the financial condition of the authority, including specified financial elements; its internal control structures and procedures; and the current state of the authority, including specified relevant issues. Section 1269(e)(3) would authorize the legislature to commission an independent outside audit of authority finances and operations.

(2) *Section 1269-f* would require the authority to provide to the public in plain English on its website and give to the governor, the speaker of the assembly and the temporary president of the senate annually by March 31 a proposed mission statement and proposed performance measurements for the authority, including specified elements to be addressed in the statement.

(3) *Section 1269-g* would require the authority, in its discretion, to enter into a project labor agreement for projects involving more than \$25 million dollars where it concludes that the public interest in obtaining the best work at the lowest price, preventing favoritism, fraud and corruption, and other pertinent considerations such as the impact of delay would best be served by doing so.

(4) *Section 1269-h* of the public authorities law would require contractors who receive authority funds of five hundred thousand dollars or more in any calendar year to provide information to employees on how to report fraud or abuse to the inspector general of the authority or the attorney-general of the state, along with information about the rights and protections that article 13 of the finance law and section 740 of the labor law afford to employees who report fraud or abuse.

**Section 8** of the bill would add a new section 1270-g of the public authorities law to require the authority to promulgate

rules and to post detailed information on its website about the granting of privileges or benefits of financial value to members and staff; the use of automobiles owned by the authority and livery cars by staff and board members; and the retention of legal and other professional outside advisors.

**Section 9** would add three new sections 1276-b, 1276-c and 1276-d of the public authorities law to address reporting by and about the authority.

(1) *Section 1276-b* would allow the state comptroller, on his or her own initiative or at the request of the governor, the speaker of the assembly or the temporary president of the senate, to obtain documents and to examine any matter relating to the finances of the authority, and report to those officials and to the chairs of legislative committees the results of the examination.

(2) *Section 1276-d*, supplementing section 2802 of the public authorities law, would require the budgets and plans of the authority to be based on GAAP principles and to be presented in a clear, consistent format from year to year, with a summary in plain English, and with detailed supporting documentation available on its website. Additionally, the bill would require the authority to prepare and post on its website quarterly revenue and expense targets and updated projections of revenues and expenses, as well as pertinent operating data, such as utilization data; a comparison of actual versus previously projected levels, with an analysis of material variances; any gap-closing initiatives undertaken; and the status of capital projects and their costs.

(3) *Section 1276-c* would prohibit the independent auditor of the authority from providing other listed professional or management services to it that would present a conflict of interest or the appearance of one.

**Section 10** would add new section 1279-c of the public authorities law to create within the authority an office of legislative and community input, the purpose of which is to receive information and comments from, and to provide information and comments to, state legislators and members of the citizens advisory committee of the authority about its mass transit facilities and services. Biennially, the office is to issue a report to the legislative leaders and the public about

the comments and concerns of which it has been made aware and its recommendations for addressing them.

**Section 11** would amend section 2824 of the public authorities law as to the duties of board members of public authorities. It would make explicit that authority board members are fiduciaries who must exercise diligence, care, skill, loyalty and commitment to its mission.

**Section 12** would add a new subdivision (15) to section 1266-c of the public authorities law to give appropriate preferences to qualified and eligible New York suppliers of goods and services and to require the authority to adopt rules of procurement that do so, consistent with federal law and requirements.

**Section 13** would set an effective date of the law.

#### **JUSTIFICATION:**

Public authorities, such as the metropolitan transportation authority, wield great power and make decisions that greatly affect the lives and fortunes of New Yorkers in such areas as mass transit and energy. This package of related provisions is intended to increase the accountability of the authority. Increased reporting to elected officials and the public via the Internet of important information affecting fares, equipment and capital programs is one essential element. Likewise, new oversight structures and increased opportunities for public input are provided. Overall, the goal is to make the authority more open, forthcoming and responsive on an ongoing basis about its operations. Mechanisms are created to insure that critical data is available on a regular basis, not only when fare increases or service cuts are planned, so that the public and its representatives can better understand how well the authority is fulfilling its mission.

#### **LEGISLATIVE HISTORY:**

**FISCAL IMPLICATIONS:** Parts A-F of the bill are revenue measures and mechanisms designed to improve transportation generally within the state and, in particular, to insure the continued effective functioning of mass transit facilities under the aegis of the authority.

The new disclosure and reporting processes and mechanisms mandated in Part G of the bill would require the authority to incur an indeterminate but not, in context, substantial amount of funds in order to attain compliance. It is projected that these additional expenditures will result in greater public awareness and responsiveness with regard to the activities and finances of the authority, and that these in turn will result in greater efficiencies that will help to reduce operational and capital costs that can drive up fares. The offsetting effects of these related factors cannot now be precisely estimated.

**EFFECTIVE DATE:** The act shall take effect on the first day of \_\_\_ next succeeding the date on which it shall become law.