

Date: September 19, 2012

Re: Main RTA bill – comparison of the bill as introduced vs. Senate-passed bill (SB 909, S-7)

The main RTA bill (SB 909, S-7) has been modified since its introduction to strengthen the financial and planning powers for the authority, clarify certain terms and timetables, and accommodate stakeholder concerns. The following summarizes the substantive changes in the main bill between the bill as introduced, and the Senate-passed bill (SB 909 S-7 as amended).

The RTA is a Metropolitan Authority under Article VII, Sec. 7 of the Constitution.

Creating the RTA as a metropolitan authority protects it from legal assertions that the act is a “local act” which is prohibited under the Constitution. References to the City of Detroit as a “city over X population” have changed after each decennial census since 1980 and have become increasingly vulnerable to legal attack as a local act. Metropolitan authorities are specifically authorized by the Constitution and may exercise powers provided by law without being subject to “local act” attack. The metropolitan authority framework results in the “qualified county” and “qualified region” definitions in Sec. 2 and throughout the bill.

Voting Rule Change strengthens Detroit’s voice on the board.

Section 6 (3) provides that the RTA board will conduct business by majority vote except for a limited number of “big” issues. The bill as introduced required a 4/5ths vote of the board to determine the rate and ballot question for any assessment on property or motor vehicles that would be placed before the voters of the region. The modified bill would require a 7/9ths vote of the board, with at least one member from each county and the city being included in the affirmative. Having a stronger voice over the “big” issues, means Detroit can leverage the lesser ones.

Single Regional Master Transit Plan

Section 7 of the bill has been clarified to provide that the RTA will develop a single master transit plan for the region by incorporating and updating the December, 2008 plan produced by the Regional Transit Coordinating Council and the AATA plan for Washtenaw County into a single comprehensive plan for the region. The plan would integrate multiple modes of public transportation and coordinate routes, schedules, fares, etc.

Centralized Financial Control

Section 8 of the bill was re-written to clarify that all state and federal capital and operating funds will flow through the RTA to transit providers in the region. Applications for project funds would also go through the authority to ensure conformance to the master transit plan. If applications are made by transit providers without going through the authority would not be eligible for state matching grants. The authority is the sole entity that may apply for state operating funds on behalf of transit providers in the region. Finally, the RTA may withhold up to 5% of state operating funds from transit providers that fail to comply with “coordination directives” issued by the authority. The re-write of Sec. 8 models the RTA along the lines of Denver, Colorado where finance is also centralized in the authority.

Legacy Cost Ownership

Section 6 (3) (b) was modified to provide that the RTA may acquire an existing transit provider only if the legacy costs of that provider have been paid or are required to be paid by a party other than the RTA, and only if the RTA board complies with federal law. This provision ensures that the legacy costs of an acquired transit system are not "stranded," i.e., that assets only are acquired. The RTA may acquire an existing transit provider only if the board of the RTA unanimously approves the acquisition, and voters in each of the initial five member jurisdictions approve the acquisition at the ballot box.

Miscellaneous Non-substantive modifications:

- Wording has been changed to protect against legal assertions that the act is a "local act" prohibited under the Constitution.
- Time clocks were inserted to guide initial decisions and policy preparation by the board.
- The terms "public transportation" and "public transit" are used interchangeably in the bill.
- The name of an authority created under the act must include the words "regional transit authority" and the name "southeast Michigan regional transit authority" was dropped in order to further protect against "local act" assertions.
- Ethical standards, protections against conflict of interest, and reports on contracting activities were added for improved accountability along with a provision allowing the governor to remove a board member for violation.
- Land condemnation proceedings, if any, would be governed by relevant state law.
- Requirements for the board to adopt an "asset management plan," conduct periodic rider surveys, and establish a "dashboard" and to post all of these items on the authority's website were added.
- A requirement for the authority to annually report the names and HQ's of all vendors with whom the authority has contracted during the previous year was added.
- A requirement to analyze the Woodward corridor all the way to Pontiac was added. [Note: The Woodward Corridor Alternatives Analysis that is presently being conducted by SEMCOG is examining Woodward all the way to Pontiac.]
- Clarification that referenda on assessments or a motor vehicle tax will occur on one of the 4 regularly schedule election days and in accord with Michigan election law was added.

Senate Amendments

Two Senate amendments were added to the main bill as follows:

- 1) Sec. 1a on p. 1 of the bill provides a statement of legislative intent; and
- 2) Sec. 10 (2) on p. 36 of the bill was amended to require that the public referendum on any levy to support the RTA be held at a November general election.