



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2009 Assembly Bill 282

**Assembly Substitute
Amendment 1 and Assembly
Amendments 1, 2, 16, 17, and 18
to Assembly Substitute
Amendment 1**

Memo published: April 22, 2010

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This memo describes Assembly Substitute Amendment 1 to 2009 Assembly Bill 282, relating to the Southeastern Regional Transit Authority (SERTA), the creation of Interim Regional Transit Authorities (IRTAs), and the creation of Regional Transit Authorities (RTAs). The memo is organized regionally, describing the provisions of the substitute amendment as they apply to Southeast Wisconsin, the Fox Cities and, generally, the rest of the state.

The memo also describes Assembly Amendments 1, 2, 16, 17, and 18 to Assembly Substitute Amendment 1, as adopted by the Assembly on April 20, 2010.

ASSEMBLY SUBSTITUTE AMENDMENT 1

Southeast Wisconsin

The substitute amendment defines Southeast Wisconsin as the area consisting of the Counties of Ozaukee, Washington, Waukesha, Milwaukee, Racine, Kenosha, and Walworth.

IRTAs

Formation, Joinder, and Jurisdictional Area

In Southeast Wisconsin, the substitute amendment authorizes the creation of IRTAs in each of the counties listed above. IRTAs may be formed unilaterally by passage of a resolution by a political subdivision (city, village, town, or county) or jointly by passage of identical resolutions by political subdivisions within each county. Once formed, additional political subdivisions may join an IRTA in the county where the political subdivision is located upon passage of resolutions by the joining political subdivision and the IRTA board of directors. The jurisdictional area of an IRTA shall consist of the

jurisdictional area of its participating political subdivisions. If the IRTA includes a county as a member, the jurisdictional area of the IRTA shall be the territorial boundaries of the county. An IRTA may not include more than one county or municipalities located in different counties.

Formation Requirements

In order to form an IRTA, the following conditions must be satisfied:

- At least one IRTA member must be operating a transit system under s. 85.20, Stats.
- All political subdivisions must commit to provide funding equivalent to their current property tax funding.
- All political subdivisions must commit to meet revenue thresholds specified by the substitute amendment.

IRTA Board of Directors

Generally, an IRTA board of directors shall consist of five to nine members with at least one appointee by the Governor. For an IRTA formed in Milwaukee County, the board shall consist of:

- Two members from the jurisdictional area, appointed by the county board.
- One member from the jurisdictional area that is outside the City of Milwaukee, appointed by the county board.
- One member appointed by the Mayor of Milwaukee.
- One member from the jurisdiction area, appointed by the Governor.

IRTA Powers and Duties

Generally, an IRTA has the following powers and duties:

- Provide or contract for the provision of transit services in the jurisdictional area.
- Provide transit planning within the jurisdictional area.
- Acquire a comprehensive unified transit system by entering into a transfer agreement with the owner of the system.
- Subject to certain conditions, apply for and utilize state and federal funds.

An IRTA in Milwaukee County shall contract with the Milwaukee County Board for the provision of transit services in Milwaukee County and may provide transit service outside the jurisdictional area if the service would benefit residents within the area.

Revenue Sources

Generally, IRTAs may derive funding from the following sources:

- Sales tax, up to 0.5%, upon referendum in the IRTA's jurisdictional area.
- Membership fees from participating political subdivisions.

If a sales tax is imposed by an IRTA, no participating political subdivision of the IRTA may levy property taxes for transit. Additionally, property tax bills must indicate the proportionate amount of taxes removed from the tax levy as a result of sales taxes imposed by an IRTA. In Milwaukee County, an IRTA must use the sales tax.

Referendum Requirements

If the IRTA intends to impose a sales tax, the tax must be approved in a referendum held in the IRTA's jurisdictional area. For an IRTA in Milwaukee County, an existing 2008 referendum satisfies the sales tax referendum requirement.

IRTA Revenue Thresholds

Within two years after the creation of an IRTA, the IRTA shall generate revenue sufficient to complete one of the following:

- A 30% reduction in fares or 8% increase in service, or a combination thereof.
- An investment equal to 8% increase in service made in capital improvements.
- For Milwaukee County, a return to the county's 2001 service level.

Within four years after the creation of an IRTA, the IRTA shall continue to satisfy its two-year revenue thresholds and shall improve the interconnectivity of its transit system by linking with other modes of transportation and improving cross-county links.

IRTA Succession or Dissolution

The process for succession by SERTA of existing IRTAs commences upon certification by the Department of Transportation (DOT) that three IRTAs have satisfied their four-year revenue thresholds. IRTAs that have satisfied those thresholds shall wind down and transfer assets and liabilities to SERTA and dissolve within 120 days of issuance of the DOT notice of certification. If an IRTA satisfies its four-year revenue threshold after three other IRTAs, the DOT shall issue a notice of certification and the IRTA shall commence its succession by SERTA. Upon succession, SERTA shall assume responsibility for providing transit services and transit planning within the jurisdictional area of each IRTA that is identified in the DOT notice. In assuming this responsibility, SERTA shall have available all options for providing transit service that were formerly available to the IRTA.

Conversely, an IRTA shall repeal any sales tax and be dissolved two years after expiration of a missed threshold deadline. This dissolution requirement may be delayed by DOT if a political subdivision has joined the IRTA after its creation.

SERTA

General Modifications

The substitute amendment makes a number of general modifications to SERTA, including the following:

- Generally, specifies the Counties and Cities of Racine, Kenosha, and Milwaukee as members of SERTA and adds “cities” to the liability exemptions for bonds issued by SERTA.
- Generally, prior to any IRTA succession, the jurisdictional area of SERTA is specified as the territorial boundaries of the Counties of Racine, Kenosha, and Milwaukee.
- Increase the limitation of issuance of bonds by SERTA to \$250,000,000.
- Specify that SERTA may operate *or contract* for KRM operation.
- Expand the requirement for submission to SERTA of federal funding applications to apply to the seven county Southeast Wisconsin region.
- Expand the activities eligible for state transit aids from appropriations under s. 20.395 (1) (hw), Stats., to include *planned* commuter rail or light rail systems.

IRTA Succession

The substitute amendment makes a number of modifications to SERTA that are contingent upon the creation of IRTAs or upon IRTA succession, including the following:

- Modifies the SERTA board of directors to include one member from any city with a population of more than 60,000, other than the Cities of Milwaukee, Racine, or Kenosha, that is a participating political subdivision in an IRTA, appointed by the mayor of the city.
- Modifies the SERTA board of directors to include one member from any county other than the Counties of Milwaukee, Racine, or Kenosha, that is a participating political subdivision in an IRTA, appointed by the chairperson of the county board.
- If Racine County is not a participating political subdivision of an IRTA when the initial notice of succession is provided by DOT identifies an IRTA in Racine County, the county may join SERTA if the governing body of Racine County adopts a resolution to join the authority and the SERTA board approves.
- Following IRTA succession, if any member of the SERTA board is from a political subdivision that is not an IRTA participant, the SERTA board may vote to remove the

member. If not removed, that member is limited to voting on issues directly related to the KRM commuter rail line.

- Upon assuming responsibility for transit arising from IRTA succession, the jurisdictional area of SERTA shall be the combined jurisdictional area of all IRTA authorities identified in all notices of succession from DOT.
 - For purposes of the car rental fee, if part but not all of Racine County is included in the SERTA jurisdictional area following IRTA succession, the SERTA jurisdictional area shall include all of Racine County unless the SERTA board votes not to impose the fee in that area, or if the board votes to remove the member of the SERTA board from Racine County.
 - For purposes of a sales tax, SERTA's jurisdictional area shall not include the area of any IRTA that did not impose the sales tax before DOT provided notice of succession.
 - Generally, funding sources utilized by an IRTA transfer to SERTA for that IRTA portion of the SERTA jurisdictional area.
- SERTA may expend funds generated from the sales tax only in the county in which the revenues were generated, and only for the purpose of providing transit or transit planning in that county. The funds may not be expended for purposes related to the KRM commuter rail line. An authority may use sales tax revenues to pay debt service on bonds issued for purposes consistent with the above limitation. The limitation may be waived by unanimous vote of the full authorized SERTA board.
- With regard to any revenues generated by SERTA from IRTA revenue sources, these revenues may be expended on the KRM commuter rail line only in proportion to the KRM ridership from the political subdivision where the revenues are raised. This limitation may be waived by unanimous vote of the full authorized SERTA board.

IRTA Incentives

Incentives to the Cities of Kenosha and Racine

Under the substitute amendment, SERTA shall pay a total of \$2.5 million to the City of Kenosha and \$2.5 million to the City of Racine if those cities are participating political subdivisions of an IRTA.

General IRTA Incentives

In addition to incentive payments to the Cities of Racine and Kenosha, Substitute Amendment 1 permits the payment of incentives by SERTA upon application by any IRTA.

With regard to general IRTA incentives, SERTA must comply with certain conditions, including the following:

- SERTA may not provide incentive funds in excess of the total amount of revenue generated by the IRTA from all funding sources identified in the resolution creating that IRTA.

- In evaluating applications, SERTA must apply uniform criteria to all applicants.
- SERTA shall consider the following factors:
 - The number of participating political subdivisions in the IRTA.
 - All funding sources providing revenue to the IRTA.
 - The long-term transit goals for the IRTA.
 - Whether the IRTA has satisfied any of the two-year or four-year IRTA thresholds ahead of schedule.
- The bylaws of SERTA shall specify a minimum amount of revenue that must be generated by an IRTA in order to obtain incentive funding.
- An IRTA that has not met its two-year or four-year revenue thresholds is ineligible to receive incentive payments, except that DOT may waive this limitation if a political subdivision joins the IRTA after the IRTA's creation.

Additionally, under the substitute amendment, SERTA shall assist a municipality or county considering the creation of an IRTA in determining the amount of incentive funds that the IRTA would likely receive after its creation.

Funding Sources for IRTA Incentives

The funding source for IRTA incentive payments made on or before June 30, 2011, shall be the rental car fees imposed and collected by SERTA. Beginning on July 1, 2011, IRTA incentive payments shall be made from aids received by SERTA under the new appropriation created in the substitute amendment.

Fox Cities RTA

Formation, Joinder, and Jurisdictional Area

Under the substitute amendment, an RTA may be created upon passage of identical resolutions in two or more municipalities in the urbanized Fox Cities metropolitan planning area (MPA). The board membership of the RTA shall be determined and specified in the creating resolutions. Following creation of a Fox Cities RTA, municipalities in the Fox Cities MPA or in Outagamie, Calumet, or Winnebago County may join.

Referendum Requirements

A municipality's resolution to create or join an RTA may not take effect unless ratified by the electors at a referendum held in the municipality at a spring election. Additionally, the Fox Cities RTA may not impose a sales tax unless the authorizing resolutions and the referendum ballot each clearly identify the maximum rate of the tax that may be imposed by the RTA.

Property Tax Limitations

If the Fox Cities RTA imposes a sales tax, no political subdivision that is a member of the RTA may levy property taxes for transit in excess of:

The amount of property taxes levied for transit in the year before the year in which the taxes are imposed:

Less an amount (if a positive number) that is equal to . . .

The amount of sales taxes collected minus the amount of federal funding for transit that the political subdivision last received.

Additionally, property tax bills must indicate the proportionate amount of taxes removed from the tax levy as a result of sales taxes imposed by the RTA.

Legislative Council RTAs

Referendum Requirements

Substitute Amendment 1 adds the requirement that no resolution creating an RTA as proposed by 2009 Assembly Bill 282 may take effect unless the resolution is approved at referendum by a majority of the electors in the political subdivision that would create or join an RTA. Additionally, an RTA may not impose a sales tax unless the authorizing resolutions and the referendum ballot each clearly identify the maximum rate of the tax that may be imposed by the RTA.

Reconciliation With 2009 Wisconsin Act 28

The substitute amendment specifies that a political subdivision is not eligible to create or join an RTA under the process proposed by Assembly Bill 282 if that political subdivision is eligible to be a participating political subdivision of an RTA under other sections of the substitute amendment or current law.

In general, with regard to reconciliation with RTAs authorized under 2009 Wisconsin Act 28, the substitute amendment specifies whether a particular treatment (for example, differences in RTA powers and duties) applies or does not apply to RTAs created under the process proposed in Assembly Bill 282.

ASSEMBLY AMENDMENT 1 TO ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Amendment 1 to Assembly Substitute Amendment 1 removes Walworth County from the Southeast Wisconsin area in which IRTAs may be formed under the substitute amendment.

ASSEMBLY AMENDMENT 2 TO ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Amendment 2 to Assembly Substitute Amendment 1 deletes the portion of Assembly Substitute Amendment 1 specifying that the referendum for imposing sales and use taxes for transit purposes, approved in 2008 in Milwaukee County, satisfies the sales tax referendum requirement for an IRTA formed in Milwaukee County.

ASSEMBLY AMENDMENT 16 TO ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Amendment 16 to Assembly Substitute Amendment 1 specifies that, for RTAs formed under created s. 66.1039 (2g) (Legislative Council RTAs), an RTA that acquires a comprehensive unified transportation system by eminent domain may lease that system to a private entity if the lease is solely for transit purposes, notwithstanding s. 32.03 (6) (b), Stats. Section 32.03 (6) (b), Stats., specifies that the power of eminent domain may not be exercised to obtain non-blighted property if the intent of the condemner is to convey the property to a private entity.

ASSEMBLY AMENDMENT 17 TO ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Amendment 17 to Assembly Substitute Amendment 1 deletes the ability of SERTA to provide general incentive payments to IRTAs. The amendment retains the \$2.5 million incentive payments to the Cities of Racine and Kenosha, if those cities are participating political subdivisions of an IRTA, and clarifies that these incentives *shall* be paid if the cities are participating political subdivisions of an IRTA.

Assembly Amendment 17 specifies that the Kenosha and Racine incentive payments are to be made only from car rental fees collected by SERTA, and deletes the appropriation related to the payment of IRTA incentives and incentives to the Cities of Racine and Kenosha. The amendment removes the June 30, 2011 limitation on payments to Racine and Kenosha from the SERTA car rental fees.

ASSEMBLY AMENDMENT 18 TO ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Amendment 18 to Assembly Substitute Amendment 1 does each of the following:

- **Fox Cities Federal Funding for Calculation of Limitation on Property Taxes.** Assembly Amendment 18 clarifies that the Fox Cities property tax limitation will be calculated using the federal *operating* funding last received. Based on census changes, it is anticipated the Fox Cities will switch from receipt of federal operating funding to federal capital funding, where the capital funding is significantly less than the operating funding. The amendment also clarifies that the calculation of the Fox Cities limitation on property taxes is based on sales taxes initially imposed.
- **SECTION 50 of Assembly Substitute Amendment 1.** Assembly Amendment 18 clarifies that SECTION 50 of Assembly Substitute Amendment 1 applies to Legislative Council RTAs, reconciling SECTION 50 with existing language in SECTION 51 of Assembly Substitute Amendment 1.
- **DOT Transit Assistance Program.** The amendment clarifies that SERTA is an eligible applicant for mass transit aids under DOT's mass transit operating assistance program, s. 85.20, Stats. For purposes of Tier A-3 commuter rail transit aids created under 2009 Wisconsin Act 28, the amendment also specifies that the definition of eligible applicant includes an entity responsible for the Dane County commuter rail project, any project resulting from the Milwaukee Downtown Connector Study, or the KRM rail line.

- **Streamlined Sales Tax and Use Agreement.** Assembly Amendment 18 revises portions of Assembly Substitute Amendment 1 in order to comply with the Streamlined Sales Tax and Use Agreement. In particular, the amendment removes references that would have permitted different taxing rates within a Legislative Council RTA under certain conditions.
- **Administration of RTA Taxation Authority.** The amendment clarifies Assembly Substitute Amendment 1 regarding the imposition and administration of sales tax rates at less than the statutory maximum in the Fox Cities. Additionally, the amendment corrects a cross-reference related to the sales tax collections by an RTA.
- **Reconciliation With Chequamegon Bay RTA.** Assembly Substitute Amendment 1 specifies that no political subdivision may create a Legislative Council RTA if it is eligible to join another RTA. Under current law, any county is eligible to join the Chequamegon Bay RTA and any municipality in a county that does so is automatically a member. Assembly Amendment 18 requires a political subdivision to actually become a member of the Chequamegon RTA prior to being ineligible for participation in a Legislative Council RTA.
- **Clarification of IRTA Funding Sources.** Assembly Amendment 18 clarifies that revenue sources identified by an IRTA in its resolution must be local revenue sources other than passenger fare revenues.

LEGISLATIVE HISTORY

Assembly Substitute Amendment 1 was offered by Representatives Berceau, Bernard Schaber, Turner, Sinicki, and Shilling. On April 1, 2010, the Assembly Committee on Transportation recommended adoption of Substitute Amendment 1 and passage of Assembly Bill 282, as amended, by votes of Ayes, 8; Noes, 2; and Absent, 2.

On April 20, 2010, the Assembly adopted Assembly Amendments 1, 2, 16, 17, and 18 to Assembly Substitute Amendment 1. On April 20, 2010, Representative Kessler moved to reconsider the vote by which Assembly Amendment 2 to Assembly Substitute Amendment 1 was adopted.

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