



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 1

TO: MEMBERS OF THE SPECIAL COMMITTEE ON REGIONAL TRANSPORTATION
AUTHORITY

FROM: Larry Konopacki and Scott Grosz, Staff Attorneys

RE: WLC: 0063/P1, Relating to the Creation of Regional Transit Authorities, Requiring a
Referendum, and Making Appropriations

DATE: October 3, 2008

This Memo is intended to serve as a basis for discussion of WLC: 0063/P1, which is a preliminary draft of regional transit authority (RTA) enabling legislation that was requested by the committee. The substance of this draft mirrors the provisions contained in 2007 LRB: 2938/P6, which is legislation that was previously authored by Chair Ott, and 2007 Assembly Bill 939, which was introduced by Representative Vos.

This Memo summarizes some of the key components in the draft and lists discussion topics that the committee may choose to consider. This Memo does not address all of the substantive provisions of the draft or identify all of the discussion topics that the committee may choose to explore, and therefore should not substitute for careful review of the draft.

RTA Formation

Political Subdivision Identical Resolutions

Under this draft, two or more political subdivisions¹ would be allowed, by adopting identical resolutions², to join together to create an RTA, subject to approval by referendum. Generally, the

¹ "Political subdivision" generally means a county, city, village, or town.

² The governing board of each political subdivision would be required to approve the resolution by at least a majority vote, except that a county board would generally be required to approve the resolution by at least a two-thirds vote.

jurisdictional area of the RTA would be the combined territorial boundaries of all of the cities, villages, and towns that are participating political subdivisions.

A political subdivision would be allowed to join an existing RTA if it adopts an identical resolution and obtains referendum approval and if all of the participating political subdivisions adopt resolutions allowing the new political subdivision to join.

The participating political subdivisions in an RTA would be allowed to amend their identical resolutions provided that all resolutions remain identical after the amendment and other requirements are met. Such amendment would not create a new RTA unless that is the intent of the participating political subdivisions.

All such resolutions must include a transit plan, and would be required to contain certain provisions, including:

- Information on the RTA's jurisdictional area.
- The RTA's purpose, extent of authority, duties, and services.
- The establishment of the RTA's board of directors, its voting requirements, and the manner of choosing its directors.
- The method of financing the formation and operation of the RTA, including limits on sales tax authority, if any, provided to the RTA.
- The procedure for withdrawal from the RTA by a participating political subdivision and dissolution of the RTA.
- Information on whether the RTA will develop, construct, or operate a fixed-route transit system and information about funding that system.³

Referendum Approval

The draft would require each political subdivision's resolution to be ratified by referendum in that political subdivision during a regular election. If a referendum is approved, the political subdivision's resolution joining the RTA would go into effect. Also, a political subdivision that passes a resolution to join an existing RTA would be required to seek approval of that resolution by referendum. Generally, a referendum would not be required for a county to be a participating political subdivision in an RTA.

A referendum questions would be required to state the maximum tax rate authorization, up to a statutory limit of 0.5%. The question would be required to express whether the RTA would be allowed

³ "Fixed-route transit system" means a mass transit system providing passenger rail, commuter rail, light rail, trolley service, or otherwise providing mass transit service on a fixed guideway or dedicated right-of-way, but does not include bus service in dedicated highway lanes.

to develop, construct, or operate a fixed-route transit system and the maximum tax revenue to be allocated for that purpose.

If the participating political subdivisions of an RTA amend their identical resolutions resulting in a change to the authorized tax rate for the RTA, this amendment would be required to be ratified by referendum in all participating political subdivisions. If such an amendment adds authorization for the RTA to develop, construct, or operate a fixed-route transit system, the amendment would have to be approved by referendum in at least five participating political subdivisions in the RTA with a population of at least 10,000 people each.

Population Thresholds and Other Requirements

For an RTA to be created, the jurisdictional area would be required to have a population of at least 50,000 people. For an RTA to include a fixed-route transit system, the population of the jurisdictional area would have to be at least 375,000 people and include at least five participating political subdivisions having a population of at least 10,000 people each.

A political subdivision would not be allowed to participate in more than one RTA. Generally, a county would be barred from participating in an RTA unless at least one of the cities, villages, or towns in that county also participates.

Counties That Include a First Class City

The draft would treat counties that contain a first class city (currently Milwaukee County) differently than other counties. The entire territory of such a county would be included in the jurisdictional area of the RTA in which it participates, only a majority vote would be required for the county to pass a resolution to join an RTA, a county referendum would be held to ratify the county board resolution to participate in the RTA, and no municipalities within the county would be allowed to individually join an RTA.

Discussion Topics

Some of the topics that the committee may choose to consider in its discussion of the provisions in the bill that relate to RTA formation include:

1. The procedures for enacting identical resolutions to create an RTA and for a political subdivision to join an existing RTA.
2. The provisions to be included in such resolutions.
3. The requirement of referendum approval.
4. The specific requirements for referendum questions.
5. The evaluation of referendum results by individual political subdivision.
6. The thresholds that must be met for fixed-route transit service to be provided.

7. The prohibition on participation in more than one RTA.
8. The county-specific provisions.
9. Different treatment for Milwaukee County.

RTA Funding

Sales Tax

The draft would permit an RTA to levy a sales and use tax (sales tax) of up to 0.5% within the RTA's jurisdictional area, but not to exceed the tax rate authorized by the identical resolutions of the participating political subdivisions. Entities that collect sales tax would remit these collections to the Department of Revenue (DOR) along with their other remissions of state, county, and special purpose sales taxes. DOR would remit these taxes to the appropriate RTA, less certain fees and discounts related to the collection process.

If a sales tax is imposed it must be applied uniformly across all participating political subdivisions of the RTA. In a county other than a county with a first class city, these sales taxes may not be imposed in any municipality within the county that is not a participating political subdivision of the RTA.

Other Funding Sources

In addition to the authorized sales tax, an RTA may use federal funding, initial contributions from participating political subdivisions, borrowing, bond proceeds, and other fees, rates, rents, and charges received by the RTA for services it provides.

After the initial contribution, an RTA may not receive any locally generated revenue from its participating political subdivisions for purposes of funding a transit system, including revenue from property taxes or other sales taxes, other than federal or state transit or program aids that flow through a political subdivision.

Other Issues

The draft would require each RTA to prepare an annual budget and to maintain an accounting system in accordance with generally accepted accounting principles. An RTA would be required to have its financial statements and debt covenants audited annually by an independent certified public accountant.

Discussion Points

The committee may choose to consider the following related to RTA funding:

1. The use of sales tax as the revenue source to fund RTAs.
2. The extent of sales tax or other taxation authority to provide to an RTA.

3. The limits on locally generated revenue.
4. Re-authorization of funding.

RTA Powers

Under the draft, an RTA would be a separate unit of government and could be vested with a wide array of powers by its participating political subdivisions, including the following:

- Acquire, maintain, and operate a comprehensive unified local transportation system.⁴
- Contract for the private operation or supervision of the RTA's transit system.
- Contract with a public or private organization to provide transportation services instead of directly providing these services.
- Lease transportation facilities to public or private transit companies that operate within and outside the jurisdictional area.
- Apply for federal aids to purchase transportation facilities considered essential for the authority's operation.
- Coordinate specialized transportation services for residents who reside within the jurisdictional area and who are disabled or aged 60 or older.
- Acquire property by condemnation.
- Access streets, roads, etc., to install, maintain, and operate its facilities.
- Incur debts, liabilities, or obligations including the borrowing of money and the issuance of bonds, including refunding bonds. (Bond principal and interest are to be paid from RTA revenues, and bonds may be used only for capital expenditures related to the acquisition of transit system equipment having a useful life of at least five years).
- Exercise any other powers that the board of directors considers necessary and convenient to effectuate the purposes of the authority, including providing for passenger safety.

⁴ "Comprehensive unified local transportation system" means a transportation system that is comprised of motor bus lines and any other local public transportation facilities, the major portion of which is located within, or the major portion of the service of which is supplied to the inhabitants of, the jurisdictional area of the authority. "Transportation system" means all land, shops, structures, equipment, property, franchises, and rights of whatever nature required for transportation of passengers within the jurisdictional area of the authority and, only to the extent specifically authorized under this section, outside the jurisdictional area of the authority. "Transportation system" includes elevated railroads, subways, underground railroads, motor vehicles, motor buses, and any combination thereof, and any other form of mass transportation, but does not include transportation excluded from the definition of "common motor carrier" under s. 194.01 (1) or charter or contract operations to, from, or between points that are outside the jurisdictional area of the authority.

- Impose a sales tax within its jurisdictional area of up to 0.5%.

An RTA that would compete with an existing common carrier would be required to coordinate its proposed operations with that common carrier to eliminate adverse financial impact to the common carrier. If this coordination does not result in mutual agreement, the DOT would arbitrate the conflict.

An RTA would not be allowed to provide service outside of its jurisdictional area unless it receives financial support for the service under a contract for that service. Also, as described in more detail above, an RTA has some limits in its ability to raise the tax rate and to add new fixed-route transit services without first receiving additional authority.

Discussion Points

The committee may choose to consider the following issues with respect to RTA powers:

1. The RTA powers generally.
2. The exercise of authority outside of jurisdictional boundaries.
3. The common carrier protections.
4. The extent of an RTA's bonding authority.

RTA Withdrawal or Dissolution

Withdrawal

A participating political subdivision would be allowed to withdraw from an RTA if the governing body of the political subdivision adopts a resolution requesting withdrawal and the resolution is ratified by referendum. Such a withdrawal is subject to the withdrawal procedure outlined in the identical resolutions of the participating political subdivisions.

To withdraw, a political subdivision would have to pay, or make provision for the payment of, the political subdivision's obligations to the RTA. Any sales tax levied by the RTA would remain in effect in the withdrawing political subdivision for the period of time for which the tax was authorized, or until the RTA repeals the tax by resolution, whichever occurs first.

The draft requires the RTA to continue to provide transportation services to the withdrawing political subdivision in the same manner and to the same extent as were provided prior to the withdrawal, as long as the tax continues to be levied in that political subdivision.

Dissolution

An RTA would be able to dissolve if the governing bodies of a majority of the participating political subdivisions adopt resolutions recommending dissolution, subject to the dissolution procedure provided in the identical resolutions of the participating political subdivisions. The draft would require

all outstanding indebtedness to be paid, all outstanding bonds to be paid, and all unexpended funds to be returned to the political subdivisions, or otherwise provided for.

Discussion Points

Possible discussion points relating to withdrawal and dissolution include:

1. Withdrawal and dissolution procedures.
2. The continuation of the sales tax in a withdrawing political subdivision after existing obligations are satisfied.

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