



Legislative Fiscal Bureau

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April 30, 2009

Joint Committee on Finance

Paper #768

Fox Cities Regional Transit Authority (Transportation -- Local Transportation Assistance)

[LFB 2009-11 Budget Summary: Page 607, #2]

CURRENT LAW

No provision.

GOVERNOR

Creation and Jurisdiction. Create a Fox Cities regional transit authority (FCRTA), a public body corporate and politic and a separate governmental entity, that would consist of Calumet, Outagamie, and Winnebago counties and any municipality located in whole or in part within the urbanized Fox Cities metropolitan planning area. In addition, specify that any municipality located in whole or in part within Calumet, Outagamie, or Winnebago counties, that is not located in whole or in part within the urbanized Fox Cities metropolitan planning area, could join the regional transit authority (RTA) if the governing body of the municipality adopts a resolution to join the authority and the RTA Board approves the municipality's request to join the RTA.

Specify that the jurisdictional area of the Fox Cities RTA would be the geographic area formed by the urbanized Fox Cities metropolitan planning area combined with the territorial boundaries of all municipalities that adopt a resolution to join the authority.

Governance. Specify that the board of directors of the Fox Cities RTA would consist of the following members who, unless noted otherwise, would serve four-year terms:

a. One member each from Calumet, Outagamie, and Winnebago counties, appointed by the county executive of each county and approved by the county board. If the county does not have an elected county executive, the member would be appointed by the county board chairperson and approved by the county board. Specify that the terms of the initial appointments

of these members would expire on June 30, 2011.

b. One member each from the cities of Appleton and Neenah, appointed by the mayor of each city and approved by the common council. Specify that the terms of the initial appointments of these members would expire on June 30, 2013.

c. One member from the town of Grand Chute, appointed by the town board chairperson and approved by the town board. Specify that the term of the initial appointment of this member would expire on June 30, 2013.

d. One member appointed by the Governor. Specify that the term of the initial appointment of this member would expire on June 30, 2013.

e. One member that would follow a rotating order of succession and, after June 30, 2017, the same order and same selection process would be repeated. The rotating membership order and selection process would be as follows:

(1) a member from the Town of Menasha, appointed by the town board chairperson and approved by the town board for a term commencing on the effective date of the budget act and expiring on June 30, 2013; and

(2) a member from the City of Menasha, appointed by the mayor and approved by the common council for a term beginning on July 1, 2013, and expiring on June 30, 2017.

g. One member that would follow a rotating order of succession and, after June 30, 2025, the same order and selection process would be repeated. The rotating membership order and selection process would be as follows:

(1) a member from the City of Kaukauna, appointed by the mayor and approved by the common council for a term commencing on the effective date of the budget act and expiring on June 30, 2013;

(2) a member from the Village of Kimberly, appointed by the village president and approved by the village board, for a term commencing on July 1, 2013, and expiring on June 30, 2017;

(3) a member from the Village of Little Chute, appointed by the village president and approved by the village board, for a term commencing on July 1, 2017, and expiring on June 30, 2021; and

(4) a member from the Town of Buchanan, appointed by the town board chairperson and approved by the town board, for a term commencing on July 1, 2021, and expiring on June 30, 2025.

Imposition of Taxes. Provide the board of an RTA created under the bill the authority to impose, by the adoption of a resolution, a sales tax and a use tax at a rate not to exceed 0.5% of the gross receipts or sales price. Specify that the taxes would be imposed on the same base of

products and services as the state and county sales and use taxes.

Provide DOR the authority to administer any RTA sales and use taxes on behalf of the RTA and make distributions to the authority imposing the tax. Specify that DOR would have all powers necessary to levy, enforce, and collect the taxes that it is provided under current law for the county and special district sales and use taxes. Require DOR to distribute 98.5% of the taxes reported for each transit authority that has imposed the taxes, minus the transit authority portion of the retailers' discount, to the transit authority.

DISCUSSION POINTS

National Trends in Transit

1. According to the American Public Transportation Association (APTA), despite declining fuel prices during the end of the year and a slowing economy, 10.7 billion passenger trips were provided by the nation's public transportation systems in 2008. This is the highest amount of transit ridership in the United States in 52 years, and it follows several recent years of increases in transit ridership. All forms of transit experienced increases in ridership in 2008, led by light rail (streetcars or trolleys) with an 8.3% increase in ridership, while commuter rail ridership increased by 4.7%, and bus ridership increased by 3.9%.

2. Recognizing this increased demand, as well as the goals of increased mobility, decreased congestion, and the need to reduce the nation's fuel use by moving people more efficiently, federal, state, and local investments in public transportation service continue to increase. According to the National Transit Database, which is administered by the Federal Transit Administration (FTA), nationwide bus transit service in terms of miles and hours of service has expanded in recent years. The National Transit Database indicates that, from 2000 to 2007, annual revenue miles of bus service, defined as the miles that vehicles actually travel while in revenue service, has increased by 9.5% nationally. In addition, hours of revenue service increased by 11.5% nationally over the same period. These service expansions, along with increased use of existing service, resulted in a nearly 14.1% increase in the number of bus trips taken nationally from 2000 to 2007. As a comparison, according to the U.S. Census Bureau, the U.S. population grew by nearly 7.1% over the same period.

3. Throughout the United States, regional transit authorities have become a common model used to deliver public transportation services. The policy reasoning for this model is that it recognizes the need to plan, construct, and deliver transportation services across political boundaries in order to provide citizens the most efficient mobility linkages as well as transportation options. Several states, including California, Illinois, Ohio, Texas, Washington, and several northeastern states with large population centers and extensive public transportation systems, have had regional transit authorities in place for decades. However, in recent years, other states have adopted legislation enabling the creation of regional transit authorities and the local adoption of dedicated funding sources for public transportation. For example, New Mexico recently enacted legislation allowing the creation of regional transit districts. Other states, like Wisconsin, are currently

debating legislation to create regional authorities with public transportation responsibilities and taxing authority.

4. The policy reason for a regional approach to public transportation is similar to the reasoning behind a regional approach to highway infrastructure. A regional approach recognizes the need to coordinate planning and resources and merge public transportation services among urban areas and the adjacent communities. This has been especially true in metropolitan areas of the country that have experienced significant population growth and the expansion of the population center from the urban core to adjacent municipalities and counties. The development of regional transit authorities nationwide also indicates state and local recognition of the need for investment in public transportation services as part of a balanced regional transportation system that also includes roads, rail, and airports and that serves commuter travel as well as providing intermodal connections for intercity travel.

Transit in the Fox Valley

5. Valley Transit, the primary transit provider for the Fox Cities, provides service in parts of Calumet, Outagamie, and Winnebago counties. Recent population estimates indicate that Calumet and Outagamie counties will be among the top 10 Wisconsin counties in percentage growth in population for the period from 2000 to 2030. The population of Calumet County is projected to grow 41.1% over the 30-year period and the population of Outagamie County is projected to grow by 33.9%, to total populations of 59,000 and 215,000, respectively.

6. Valley Transit is owned and operated by the City of Appleton, but the system is a regional system. Valley Transit provides service to the following jurisdictions: the cities of Appleton, Kaukauna, Menasha, and Neenah; the villages of Kimberly and Little Chute; and the towns of Buchanan, Grand Chute, and Menasha. According to Valley Transit officials, each of these communities provides property tax revenues to Valley Transit to cover the portion of the costs of service provided to the communities that is not covered by federal, state, or farebox revenues. In addition, Calumet, Outagamie, and Winnebago counties also provide property tax revenues to cover some of the costs of the Valley Transit system's paratransit services. The Fox Cities Transit Commission, consisting of eight members, including five members from the City of Appleton, with the additional three members representing the participating municipalities, governs Valley Transit's policies and procedures. However, the City of Appleton common council has final decision making authority over the budget and major service changes. The Wisconsin Department of Transportation (DOT) has found the system to be in compliance with the cost efficiency standards established by the Department.

7. According to Valley Transit officials, in recent years, the system has been in the mode of raising fares and reducing its fixed route bus service, which has affected its ridership. System bus fares were increased in 2003, 2005, and again in 2009. The current cash fare for fixed route riders is \$1.80, which is near the cash fares charged in major cities around the country. Specific routes have seen reductions in the hours of service and many routes receive only hourly service. As an indication of these service reduction, according to the FTA's National Transit Database, the number of annual revenue hours of fixed route bus service for Valley Transit declined

by 3.2% between 2000 and 2007. Table 1 indicates the annual fixed route ridership for Valley Transit during the past ten years.

TABLE 1

**Valley Transit Fixed-Route Bus Ridership
(Unlinked Trips)**

<u>Year</u>	<u>Ridership</u>	<u>Percentage Change</u>
1999	986,403	
2000	966,291	-2.0%
2001	971,692	0.6
2002	970,417	-0.1
2003	909,197	-6.3
2004	937,410	3.1
2005	954,725	1.8
2006	937,297	-1.8
2007	958,359	2.2
2008	1,001,325	4.5

8. Over the past 10 years, Valley Transit experienced four years in which its fixed route ridership declined, and one year with less than a 1% growth in ridership. The past two years, despite the earlier fare increases and service reductions, the system did experience ridership growth. In 2008, the system provided over one million trips for the first time since 1998. By comparison, in 1990, Valley Transit provided over 1.4 million fixed route trips to riders. Further, although steadily declining nearly every year during the 1990s, Valley Transit provided over one million fixed route trips each year from 1990 through 1998.

9. In March, 2006, local leaders in the region formed a Fox Cities Regional Transportation Authority (FCRTA) study committee to review the current public transportation system in the area and explore potential options for the future, including the potential benefits of forming a regional transportation authority. The study committee was made up of local elected officials, East Central Wisconsin Regional Planning Commission officials, and business and other organizations in the region. As part of the study, the Committee conducted questionnaires of local businesses and organizations to obtain their input on existing public transportation services in the region and how best to deal with the funding concerns facing regional public transportation.

10. In large part, the impetus for the study committee was to address two concerns relative to the funding of public transportation in region. One concern about the existing public transportation funding system in the region was described by the study committee as follows:

"if cost increases occur or are projected, Valley Transit goes to each of the entities to collect additional funds. If these entities reject providing additional funds, services are cut and/or fare increases are passed down to the consumer."

11. In addition, FCRTA study commission documents indicate that a second concern, and the primary driving force behind formation of the RTA Study Committee, is the potential impending loss of federal operating funds for transit in the region. Current federal regulations dictate that once the population of an urbanized area reaches 200,000, the area's eligibility for federal transit funding is dramatically reduced. In 2008, according to DOT, Valley Transit received over \$2.1 million in federal transit operating funding, which covered nearly 30% of the system's costs that year. The FCRTA study committee indicated that the region could potentially lose up to \$1.5 million of these funds. While the Fox Cities urbanized area has already reached 200,000 in population, it will not become official until the results of the 2010 U.S. Census are complete, sometime in 2012 or 2013. At that point, barring any changes to the federal program, the Fox Cities region will experience a significant reduction in federal funding. This would either require additional local funding commitments or further reductions in service, or a combination of both.

12. Unlike in southeast Wisconsin or Dane County, the proposal for a Fox Cities RTA may not initially be a means to expand the types of transit service in the region. Rather, the proposed FCRTA, along with a dedicated sales tax for transit, may be seen as a mechanism to generate revenues to maintain existing service and to limit future reductions in service. These revenues could be used to take the funding pressure off the local jurisdictions when having to make decisions about whether to fund existing Valley Transit services. Perhaps more importantly, the sales tax revenues of the RTA would be a dedicated revenue source for public transportation that could be used to replace anticipated losses in federal transit operating funding. Restoration of recent service reductions, in the form of increased frequency of service and route restorations, may also occur. The study committee noted that a FCRTA could also have benefits in the form of improved efficiencies in the way public transportation is planned, budgeted, and managed in the region.

13. Local officials in the Fox Valley and nationwide are working with federal officials on federal program changes that would alleviate the federal transit operating funding issue facing their systems. Transit agencies around the country, that are similar in size to the Fox Cities metropolitan area, are also facing the possibility of significant federal funding reductions, including the Green Bay metropolitan area. These systems are seeking possible legislative changes to the federal formula. In 2007, proposed federal legislation titled the "Transit System Flexibility Act of 2007" was introduced in Congress, but was not enacted. The proposal would have made an exception to the federal transit formula to allow systems that operate less than 100 buses in fixed route service during peak service hours to continue to use federal funds to cover the operating expenses of the system.

14. A working group of the Fox Cities RTA study committee has endorsed the concept of a Fox Cities RTA in the past. In addition, the Mayor of Appleton has publicly endorsed the concept. Other local officials and governing boards have not indicated publicly whether or not they support the creation of an RTA with sales tax authority in the Fox Cities.

Creation and Jurisdiction of the FCRTA

15. Under the bill, three regional transit authorities in the state could have sales tax authority and spending authority relative to transit service: a Dane County RTA, a Fox Cities RTA,

and a Southeast RTA. Discussions at the local level regarding enabling legislation for RTAs in Wisconsin have been going on for several years. Recently, a Legislative Council Study Committee on Regional Transit Authorities completed its work on enabling legislation for RTAs that is somewhat similar to the Governor's recommendations. Many local elected and transit officials believe that the state government should provide this authority, and let the local governing bodies and citizens determine whether or not an RTA is created.

16. The Governor recommends that the state automatically create a Fox Cities RTA, with no regional or local decision as to whether the RTA should be established. The other two RTAs allowed under the bill could only be created by vote of a local governing board. Some contend that the local governing bodies or the citizens themselves, who will be paying for the RTA services, should determine whether an RTA is created. However, if the state determines that the benefit of a regional approach to public transportation service is in the best public interest, it may be reasonable for the Legislature to create and define the initial RTAs in these regions. The state has often preempted local decision making on matters of common state interests when the need to protect or encourage such interests overwhelms the desire for local control over that matter. In this instance, in order to cut through what are often competing local interests, and in recognizing the same benefit other states have recognized in having a regional body oversee the public transportation decisions of a region, it could be seen as being in the state's best interest for the state to create and define the jurisdictions of each of these regional transit authorities.

17. Alternately, the Committee could create a procedure for the creation of the Fox Cities RTA that is similar to that included in the bill for the Southeast and Dane County RTAs. Under this approach, the Fox Cities RTA would be created if any of the three affected counties adopts a resolution to this effect. The initial territory to be included in the RTA's jurisdictional area would be the part of the urbanized Fox Cities metropolitan planning area located in the establishing county or counties. If the Committee determines that a regional approach would be benefited by only creating the RTA if there is a regional consensus to do so, this alternative could be structured to require an affirmative vote of all three county boards.

18. Among other powers, the FCRTA could impose sales and use taxes within the RTA's jurisdictional area and would be required to provide, or contract for the provision of, transit service within that area. The members of the FCRTA would consist of the 15 municipalities currently located wholly or partly in the urbanized Fox Cities metropolitan planning area, which includes: (a) the cities of Appleton, Kaukauna, Menasha, and Neenah; (b) the villages of Combined Locks, Kimberly, and Little Chute; and (c) the towns of Buchanan, Grand Chute, Greenville, Harrison, Kaukauna, Menasha, Neenah, and Vandenbroek. Other municipalities in Calumet, Outagamie, or Winnebago counties that are located entirely outside the urbanized Fox Cities metropolitan planning area could choose to join the FCRTA by a vote of their governing body, if the RTA board agrees to their joinder. This includes 16 municipalities in Calumet County, 24 municipalities in Outagamie County, and 17 municipalities in Winnebago County.

19. Some have expressed concern that municipalities would be included in the proposed FCRTA without a vote either of their governing body or their residents. The RTA would have

taxing and spending authority under the bill, but those residents who would pay the taxes and receive the transit services would not be allowed a vote on whether the RTA is created. Recognizing this concern, some contend that the RTA should only be created by a referendum vote. Despite not being required, it is possible that the political pressure on local elected officials could result in a referendum vote being held before any RTA is created.

20. By requiring a referendum vote, the Committee could make it certain that the residents within the proposed jurisdictional area of the RTA would have a say in whether it is established. A referendum vote could also improve local buy-in of the RTA and its actions and potentially alleviate any impression among area officials and residents that the RTA is being forced upon them by the state. This referendum requirement could also be extended to include any municipality that may choose to join the FCRTA after its creation. Under the bill, such municipalities could join by vote of their governing bodies.

21. Concern also exists that under a district-wide referendum the electorate of the larger municipalities could overwhelm the vote decision. For example, residents of the larger municipalities, who may favor an RTA, could sway the vote in favor of its creation. This could result in municipalities that would not have voted individually to create the RTA having to be part of the RTA. This is a fundamental characteristic of elections, and would be similar to any vote within any sized jurisdiction. However, this concern could be eased by requiring that each municipality within the proposed RTA hold a separate referendum on its creation, on a single date to be agreed upon, and specified, by the Calumet, Outagamie, and Winnebago county boards. Under this alternative, only those municipalities that vote to create the RTA would be part of its jurisdictional area and be subject to any taxes it imposes.

22. The state has a long tradition of local control, or allowing local governments the authority to make decisions that impact the citizens represented by those governments. Allowing the governing bodies of each municipality to vote whether to join the RTA would be consistent with this tradition. Under this option, the governing bodies of each municipality located wholly or partly within the urbanized Fox Cities metropolitan planning area would have to adopt a resolution on whether the municipality would be a member of the RTA. This would be similar to the bill provisions for those municipalities located outside the urbanized Fox Cities metropolitan planning area. Allowing the elected representatives to vote on being a part of the RTA would allow some level of citizen input. Provisions could be included to allow the Calumet, Outagamie, and Winnebago county boards to agree upon, and specify, a date by which municipalities would have to make a determination as to whether to be a member of the RTA. Under this option, the initial jurisdictional area of the RTA would be consistent with the boundaries of all the municipalities whose governing bodies vote to be a member.

23. Allowing individual municipalities the option of joining the RTA could result in the loss of some of the regional benefits of the proposal. The urbanized Fox Cities metropolitan planning area, as the jurisdictional area for the proposed FCRTA, contains the densest population centers in the region and the areas and corridors where the most immediate growth and development are expected. Many consider this planning area to be the best scope for developing a regional

transportation system, which is the primary policy reason for creating a regional transit authority. Allowing individual municipalities to choose whether to be a part of the RTA may result in some municipalities choosing not to be part of the RTA, despite being vital linkages in a balanced, long-term regional plan for transit and the overall transportation system of the region. Allowing such local decisions could also create a non-contiguous RTA district, which could create sales tax islands within the region and make transit service decisions more difficult.

24. The jurisdictional area of the FCRTA would be consistent with the boundaries of the urbanized Fox Cities metropolitan planning area, plus the territorial boundaries of any municipalities in the three counties that are outside that area, but choose to join the RTA. The proposed jurisdictional area would not include all of the Town of Grand Chute, the largest town in the region, or of several other towns that straddle the boundary of the metropolitan planning area. Allowing portions of a municipality to be included in the jurisdictional area of an RTA and be subject to the sales and use taxes could prove difficult from a tax administration standpoint and could be confusing for taxpayers paying the tax. DOR would have to determine which retailers in these municipalities would have to impose the tax. Taxpayers, in making their shopping decisions, may find it difficult to determine which retailers impose the tax. Also, from a transit service standpoint, the FCRTA would not be allowed to provide service directly to the portions of these municipalities outside the metropolitan planning area. Specifying that the RTA's jurisdictional area would include all municipalities located wholly or partly within the urbanized Fox Cities metropolitan planning area would alleviate these concerns.

Governance

25. Under the bill, the FCRTA board would consist of nine members: (a) one each from Calumet, Outagamie, and Winnebago counties; (b) one each from the cities of Appleton and Neenah; (c) one from the Town of Grand Chute; (d) one, with a rotating order of succession, from the Town of Menasha and the City of Menasha; (e) one, with a rotating order of succession, from the City of Kaukauna, Village of Kimberly, Village of Little Chute, and Town of Buchanan; and (f) one appointed by the Governor.

26. As indicated in the attachment to this paper, representation on RTA boards that use sales tax revenues to fund transit services varies throughout the country. Of the 11 RTAs or transit agencies identified in the attachment (for areas with between 200,000 and 500,000 in population), 10 are directly governed by a board. The remaining system, the Mountain Metropolitan system of Colorado Springs, CO, is run by a city department, but a regional transit authority had the sales tax authority for that system. Of the 11 transit authority or agency boards, including Mountain Metropolitan, six are made up of citizen members appointed by the county or local governing bodies and four boards are made up of local elected officials appointed by their city or county governing board. The remaining board, in Charleston, SC, is made up of a mixture of elected officials and citizen members appointed by the county's legislative delegation and member cities.

27. The proposed RTA would have general sales tax authority, but would not be directly elected by the citizens paying the tax. Having the RTA board members appointed by the Governor and local officials could insulate the board from the concerns of those paying the sales tax. If the

board is unresponsive to their concerns, taxpayers could vote against the elected officials who appointed the RTA board members at the next election, but there would be no direct way for citizens to express their disapproval of individual board members. This is similar to the situation that exists with the state's technical college district boards, which have general property tax authority, but are appointed to the board rather than elected by those paying the local property tax. An alternative would be to specify that the board members would have to be elected by residents of the district they represent. Conversely, if a decision is made to require referendum approval to impose the sales and use taxes, this could be viewed as providing enough taxpayer oversight to mitigate any perceived need for electing board members.

28. As indicated earlier, some of the RTA boards listed in the attachment to this paper require the members appointed to their board to be locally elected officials. Having elected officials serve on the RTA Board could make the board more directly responsible to the taxpayers. Under this option, if the voters of a member's county or municipality disapprove of that member's decisions on the RTA board, the voters could vote that member out of office.

29. None of the 11 regional transit authorities included in the attachment has a representative to their board appointed by the Governor. Their boards consist solely of county and municipal appointees. However, the state provides nearly \$2 million in annual mass transit operating assistance to Valley Transit, which, according to DOT, covered approximately 27.4% of that system's costs in 2008, and could be in a supporting role for further transit investments. Therefore, having a Governor's appointee to represent the state's interests may be warranted. If the Committee provides the Governor an appointee to the RTA board, it could require that the Senate approve the appointment. This requirement would be similar to those for many of the Governor's other appointments to state, regional, or local boards.

Imposition of the Sales Tax

30. The use of sales tax revenues to pay for transit is common across the country. According to the National Transit Database, in 2007, over 100 metropolitan or regional transit authorities used sales tax revenues to fund their transit operations. Nationwide, these authorities have authority to tax the residents of thousands of municipalities in order to fund transit services in their regions. The urbanized areas that are serviced by these transit authorities range from 52,000 in Skagit, WA, to nearly 18 million in New York City. The attachment to this paper lists the sales tax rate and the annual sales tax revenues of the transit authorities or agencies with sales tax authority in medium-sized urban areas (populations between 200,000 and 500,000).

31. Many states have multiple metropolitan or regional transit authorities with sales tax authority. For example, the State of Washington has 13 transit authorities or districts that have the authority to impose up to 1% sales and use taxes in their jurisdictional areas. The State of Texas may make the most extensive use of transit authorities with local sales tax authority. Texas has 10 transit authorities or districts that impose either 0.5% or 1% sales and use taxes to fund regional transit services to over 60 major Texas municipalities and numerous unincorporated areas.

32. Several metropolitan transit authorities use sales tax revenues to back bonds issued

to fund major transit service improvements. In many instances, the use of sales tax dollars for transit operation or improvements was approved by voters at referendum. The Wall Street Journal reported recently that at the November, 2008, election, U.S. voters approved 23 measures nationally that will invest \$75 billion into public transportation systems. According to the Center for Transportation Excellence, the source for the article and an organization that tracks local transportation investment ballot initiatives across the country, overall, 70% of the local ballot measures passed, including 14 of 19 that raised local sales taxes to pay for the investments. Similarly, in discussions regarding RTA legislation in Wisconsin, it has been suggested that a referendum vote on whether to impose a sales tax within the RTA district should be required. The Committee could amend the bill to specify that voters within the RTA's jurisdiction would have to approve the sales and use taxes for transit at referendum. If the Committee also requires that a referendum on the question of creation of the RTA district be held, the question as to whether to impose sales and use taxes within the region could be included in the same referendum.

33. One concern related to the use of the sales tax as a source of funding for transit is that the sales tax can be an unstable source of revenue. During the recent economic downturn, sales tax revenues have fallen off across the country, which has impacted the existing transit service or transit expansion plans of many local transit authorities. However, the proposed sales tax would be dedicated for transit use, which could ensure some stability in transit funding, unlike the current system where local transit agencies have to vie with other local programs for a share of local property tax levies. Also, as the economy expands or prices increase, the sales tax, as a revenue source, would have some potential for revenue growth over time.

Local Fiscal Effect of the Proposal

34. The RTA sales tax would be a dedicated revenue source for transit that could be used to replace all or a portion of the local property tax amounts currently levied for the operation and capital purchases of the mass transit systems in the region, but this would not be required. Given the potential loss of federal transit operating funds in the Fox Cities, the availability of funds for property tax relief or service expansion would largely depend on the level at which a FCRTA sales tax rate would be set.

35. Table 2 compares the estimated revenue from sales and use taxes imposed in the FCRTA jurisdictional area at either 0.125% or 0.25%, if the taxes had been imposed in 2008, with the 2008 mass transit operating expenditures paid from property taxes for transit system services in the area. The amount of federal revenues DOT indicated would be provided to Valley Transit for expenditure in 2008 is also shown. DOR would administer the RTA sales and use taxes and would receive 1.5% of the tax revenue for administering the taxes. The revenue amount is based on the UW Extension's estimate of the sales and use tax revenue that Calumet, Outagamie, and Winnebago counties, which do not have 0.5% county sales and use taxes, could generate if they imposed such taxes. That amount was then adjusted using the population and per capita income of those municipalities within the FCRTA, and to reflect the lower rates shown in the table.

TABLE 2

**Comparison of 2008 Potential FCRTA Sales and Use Tax Revenue,
2008 Transit Operating Expenditures Paid from Property Taxes,
and 2008 Federal Transit Expenditures**

Sales and Use Tax Rate	0.125%	0.25%
Net Sales and Use Tax Revenues	\$4,816,750	\$9,633,500
Less Transit Expenditures		
Existing Operating Expenditures*	\$1,939,600	\$1,939,600
Total Federal Expenditures	<u>2,155,200</u>	<u>2,155,200</u>
Total Transit Expenditures	\$4,094,800	\$4,094,800
Remaining Tax Revenues	\$721,950	\$5,538,700

* Projected 2008 system operating costs submitted to DOT less state and federal aid and farebox revenues. Amounts do not include any existing local funding for transit capital improvements. While the City of Appleton is the major contributor, each of the three counties, and other municipalities in those counties, contribute to Valley Transit Metro Services.

36. As indicated in the table, the amount of funding from either 0.125% or 0.25% sales and use taxes would be more than the amount needed to replace the existing property tax amounts for transit and the amount of federal funding currently provided to Valley Transit. Therefore, the Committee could limit the allowable tax rate that could be established by the FCRTA to 0.25%. Under the bill, the FCRTA could establish the rate at any level up to 0.5%.

37. Under the bill, the RTA board would both determine the tax rate for the FCRTA and determine where these local transit funds would be spent within the RTA's jurisdictional area. This would allow the RTA board, which may have a more regional perspective of the transit needs and the overall transportation system, to determine the transit service and funding priorities within the RTA's region.

38. The existing southeastern Wisconsin RTA, in its November, 2008, report to the Legislature on legislative changes for that RTA, included a recommendation that the RTA board be required to allocate funds for transit services in each municipality or county within the RTA in an amount equal to the amount of sales tax revenue raised in each municipality or county. This recommendation would attempt to ensure that each municipality or county would be guaranteed to receive a level of transit expenditures or service that would be representative of the amounts they would be asked to pay.

39. The Committee could put in place a similar requirement for the Fox Cities RTA. However, such a provision could tie the hands of the RTA board members in determining how best to provide transit services in the region. In addition, the amount collected within a municipality is not the same as the amount paid by residents of that municipality, since people frequently cross municipal boundaries to make purchases. Since sales tax reports are often filed centrally by firms that do business in multiple locations, DOR cannot currently report sales tax collection data by municipality, or by part of a municipality. County data is available for those counties that have a

county sales tax. Imposing a "return to origin" system by municipality would likely require DOR to change the sales tax return forms to collect this information from businesses, which could involve significantly greater tax compliance costs for them. Alternatively, DOR could develop procedures to estimate the tax incidence, based on the populations and business characteristics of each municipality. However, this would be costly on an ongoing basis for the Department, as these characteristics would change over time, and would still be subject to estimating error.

40. An estimate of the impact of the FCRTA proposal on the sales and use taxes paid by households in the FCRTA would first have to determine the amount of sales and use taxes that would be paid by consumers who are residents of the urbanized Fox Cities area. A recent Department of Revenue study, Wisconsin Tax Incidence Study, (December, 2004), estimates that 67% percent of the sales and use taxes paid in the state are paid by consumers and 33% are paid by businesses. In addition, of the portion of sales and use taxes paid by consumers, the study found that 2% of these taxes (or approximately 1.3% of the total sales and use taxes) are paid by out-of-state consumers. However, given the fact that the Fox Cities are a major regional shopping center, this estimate assumes that nonresidents of the urbanized Fox Cities area would account for 5% of the sales and use taxes paid by consumers (or approximately 3.4% of total sales and use taxes).

41. The following table indicates the estimated amount of the proposed sales and use taxes allocated to the residents of the FCRTA under the assumptions indicated above and an estimate of the amount paid per household. Because the table indicates the amount of sales and use taxes paid per household, the amount of revenue used to fund DOR's 1.5% administrative fee is included in the amount of estimated taxes paid. This table indicates the amount paid per household under sales and use tax rates of 0.125% or 0.25%. If the sales and use tax revenues are used to supplant existing transit expenditures being paid by the property taxpayers in the municipalities of the RTA, those taxpayers could experience some reduction in their property taxes, if the taxes aren't shifted to support other municipal functions.

TABLE 3

**Estimated Amount of Sales and Use Taxes Paid
Per Household in the Proposed FCRTA**

Sales and Use Tax Rate	0.125%	0.25%
Estimated Annual Sales Taxes Paid	\$4,890,100	\$9,780,200
Percent of Sales and Use Taxes Paid by Consumers		
DOR Study Estimate	67.0%	67.0%
Nonresidents of the FCRTA	<u>-3.4</u>	<u>-3.4</u>
Net Percentage Paid by Residents	63.6%	63.6%
Sales and Use Taxes Paid by Resident Consumers	\$3,110,100	\$6,220,200
Amount Paid per Household*	\$39.61	\$79.22

* Based on U.S. Census Bureau three-year estimates (2005 thru 2007) of the number of households in the Fox Cities urban area.

42. These estimates do not take into account the extent to which businesses may pass on the cost of their sales and use taxes to consumers. To the extent that businesses are able to pass on a portion of the cost of their sales and use tax burden, the consumer share of the total taxes paid would increase, both for residents of the FCRTA and nonresidents. It should also be noted that making any estimate of the sales and use tax incidence for certain geographic areas or population groups is difficult. The estimates of sales and use tax incidence presented here could vary depending on how the demographics and spending patterns in the FCRTA vary from the statewide estimates used to derive these estimates. Further, the taxes paid by individual residents or households could vary significantly from the average amounts based on individual income and spending patterns.

ALTERNATIVES

A. Creation and Jurisdiction of the Fox Cities RTA

1. Approve the Governor's recommendation to create a Fox Cities RTA, whose members would be the 15 municipalities located partly or wholly within the urbanized Fox Cities metropolitan planning area. Specify that the jurisdictional area would consist of the urbanized Fox Cities metropolitan planning area. Allow municipalities in Calumet, Outagamie, and Winnebago counties that are not in the urbanized Fox Cities metropolitan area to join the RTA by adopting a resolution to do so, if the RTA board approves their joinder.

2. Modify the Governor's recommendation for the creation of a Fox Cities RTA by doing one of the following:

a. Allow for the creation of a RTA if one or more county boards of Calumet, Outagamie, or Winnebago counties adopts a resolution to do so. Specify that the initial territory to be included in the RTA would be that part of the urbanized Fox Cities metropolitan planning area located in the county or counties adopting a resolution. Allow any of the three counties that does not adopt a resolution to create the RTA to adopt a resolution to join the RTA at a later date. Provide that the jurisdictional area of the RTA would be expanded to include the part of the urbanized Fox Cities metropolitan planning area located in the joining county or counties.

b. Allow for the creation of a RTA only if the county boards of Calumet, Outagamie, and Winnebago counties all adopt a resolution to create the RTA. Specify that the initial territory to be included in the RTA would be those municipalities located wholly or partly in the urbanized Fox Cities metropolitan planning area.

c. Allow for the creation of a RTA by a majority vote of all electors within the 15 municipalities located partly or wholly within the urbanized Fox Cities metropolitan planning area at referendum. Provide the county boards of Calumet, Outagamie, and Winnebago counties the authority to set an agreed upon date for the referendum vote and specify that the referendum must be held on the date of a spring or fall general election.

d. Allow for the creation of a RTA that would consist of only those municipalities

located partly or wholly within the urbanized Fox Cities metropolitan planning area whose electors vote to create the RTA at a municipal referendum. Provide the county boards of Calumet, Outagamie, and Winnebago counties the authority to set an agreed upon date for the individual municipal referenda votes and specify that the referenda must be held on the date of a spring or fall general election.

e. Allow for the creation of a RTA that would consist of only those municipalities located partly or wholly within the urbanized Fox Cities metropolitan planning area whose governing boards vote to create the RTA. Provide the county boards of Calumet, Outagamie, and Winnebago counties the authority to set an agreed upon date by which the governing boards must vote to be initially included in the RTA.

3. Specify that any municipality not located in the urbanized Fox Cities metropolitan planning area may join the RTA only if the electors of that municipality, at a municipal referendum, elect to join the RTA. Specify that the referendum must be held on the date of a spring or fall general election.

4. Specify that any municipality that does not initially pass a referendum to join the RTA may do so at a later date, at a subsequent municipal referendum. Specify that the referendum must be held on the date of a spring or fall general election.

5. Specify that the jurisdictional area of the RTA would be the territorial boundaries of the municipalities that would be members of the Fox Cities RTA (this would make the jurisdictional area of the RTA consistent with any membership allowed for the Fox Cities RTA under the preceding alternatives).

6. Delete the Governor's recommendation relative to the creation of a Fox Cities RTA.

B. Governance

1. Approve the Governor's recommendation to specify that the Fox Cities RTA board of directors would consist of the following members: (a) one member each from Calumet, Outagamie, and Winnebago counties; (b) one member each from the cities of Appleton and Neenah; (c) one member from the Town of Grand Chute; (d) one member, with a rotating order of succession, from the Town of Menasha and the City of Menasha; (e) one member, with a rotating order of succession, from the City of Kaukauna, Village of Kimberly, Village of Little Chute, and Town of Buchanan; and (f) one member appointed by the Governor. Also, approve the Governor's recommendations relative to the terms of the board members.

2. Modify the Governor's recommendation by doing one or more of the following:

a. Require that members to the Fox Cities RTA board be an elected official from the governing body of the county or municipality of the appointing authority. Specify that the Governor's appointee would have to be an elected official within the urbanized Fox Cities

metropolitan planning area.

b. Require that the members be elected by the voters of the jurisdictions they represent. The Governor would continue to appoint one member.

c. Delete the Governor's appointee to the RTA board.

d. Require that the Governor's appointee to the RTA board be subject to confirmation by the Senate.

C. Imposition of Sales and Use Taxes

1. Approve the Governor's recommendations that the RTA board could impose up to 0.5% sales and use taxes within the jurisdiction of the RTA, and allow DOR the authority to collect the taxes on behalf of the RTA and distribute the revenues, less the 1.5% administrative fee, back to the RTA.

2. Modify the Governor's recommendations by specifying that the RTA board could impose up to 0.25% sales and use taxes within the jurisdiction of the RTA.

3. Specify that the RTA would have authority to impose the sales and use taxes under Alternatives C1 or C2 only if their imposition is approved by a majority vote of the electors within the RTA's jurisdictional area at referendum. Provide the county boards of Calumet, Outagamie, and Winnebago counties the authority to set an agreed upon date for the RTA tax referendum and allow that if a referendum vote is held on the question of creation of the RTA, the referendum vote on the sales and use taxes could be included in the same question.

4. Specify that the RTA board, after paying the administrative costs of the RTA, would be required to expend the remaining sales and use taxes for transit services in each municipality in a percentage equal to the estimated percentage of the overall RTA sales and use tax revenues that are paid by residents in each municipality. Require DOR to assist the RTA in determining the RTA sales and use tax amounts paid by residents in each municipality.

5. Delete the Governor's recommendation allowing the RTA to impose up to 0.5% sales and use taxes.

Prepared by: Al Runde
Attachment

ATTACHMENT

Transit Authority Boards or Agencies with Sales Tax Revenue (Urban Areas Between 200,000 and 500,000 in Population)

Board or Agency (Membership)	Sales Tax Rate (Current)	Sales Tax Revenue for Transit (2007)*	Urban Area Population (2007)
<p>SunLine Transit Agency (Thousand Palms, California) Ten members: one elected official each from the nine member cities and Riverside County, appointed by the governing entities.</p>	.25%**	\$13,750,400	254,900
<p>Antelope Valley Transit Authority (Lancaster, California) Six members: two members each from the City of Lancaster, the City of Palmdale, and Los Angeles County, appointed by the governing entities.</p>	.25**	5,490,100	263,500
<p>Stark Area Regional Transit Authority (Canton, Ohio) Nine members: the members are appointed by the Stark County Council of Government, Stark County Commissioners, and the cities of Canton, Massillon, and Alliance.</p>	.25	11,522,000	266,600
<p>Corpus Christi Regional Transportation Authority (Corpus Christi, Texas) Ten members: five members from the City of Corpus Christi, three from the Nueces County, appointed by the governing boards, and two members appointed by the small cities mayor committee made up of member cities.</p>	.50	17,222,400	293,900
<p>Denton County Transportation Authority (Lewisville, Texas) 14 members: one member appointed by the governing body of each of the eight municipalities with a population of 17,000 or more in the county; three members appointed by the County Commissioner's Court, two of whom must reside in the unincorporated area of the county; and three members designated by the remaining municipalities with a population of more than 500 but less than 17,000 located in Denton County.</p>	.50	3,313,500	299,800
<p>San Joaquin Transit District (Stockton, California) Five members: two members appointed by the Stockton city council, two members appointed by the San Joaquin County board, and one member appointed jointly by five members of the county board and five members of the Stockton city council.</p>	.50**	22,039,400	313,400

Board or Agency (Membership)	Sales Tax Rate (Current)	Sales Tax Revenue for Transit (2007)*	Urban Area Population (2007)
Spokane Transit Authority (Spokane, Washington) Nine members: nine elected officials chosen from the jurisdictions served by the Public Transportation Benefit Area, which could include municipal and county representatives.	.60%	\$33,084,200	334,900
Gold Coast Transit (Oxnard, California) Five members: one elected official representing each of the four city member governments and one elected official representing Ventura County.	.25**	6,604,000	337,600
Golden Empire Transit District (Bakersfield, California) Five members: two members appointed by the Kern county board, two members appointed by the Bakersfield city council, and one member appointed by majority vote of the other four members.	.25**	11,324,200	396,100
Charleston Area Regional Transportation Authority (Charleston, South Carolina) 18 members: three members appointed by the Charleston County legislative delegation and 15 elected representatives from the member governments.	.50	7,623,200	423,400
Mountain Metropolitan Transit/Pikes Peak Rural Transit Authority (Colorado Springs, Colorado) City Department administers transit system. Pikes Peak Rural Transit Authority (PPRTA) has sales tax authority. PPRTA has eight members: three El Paso County commissioners appointed by the county board, three Colorado Springs council members appointed by the council, one council member each appointed by the councils of Manitou and Green Mountain Falls.	.10	6,681,300	466,100

* Sales tax revenue is from the National Transit Database, and is the amount of transportation sales tax revenue dedicated to transit. Some agencies have the entire sales tax amount going to transit, while others use a portion of the transportation sales tax for other transportation purposes..

** Sales tax is a 0.25% California statewide tax that is distributed back to local government to be used for transportation purposes. Local governments also have the authority to enact an additional tax for transit purposes, which the San Joaquin Transit District has done.