

House Bill 5309/Senate Bill 909

Southeast Michigan Regional Transportation Authority Act (RTA Act)

Notes by Chris White – 2/10/12

General Issues

The RTA Act appears to be primarily designed primarily to:

- Deal with the issues with DDOT and SMART in Wayne/Oakland/Macomb Counties
- Provide for implementation of a regional rolling rapid transit system

Issues involving the particular situation in Washtenaw County or the relationship with the Ann Arbor Transportation Authority (AATA) are not explicitly addressed. Potentially, the bills could result in a loss of local control over service and funding.

AATA is more than a year into an intensive effort to develop a Transit Master Plan (TMP) for Washtenaw County, gain local support, reorganize as a countywide authority, and develop the local funding to implement the service expansion in the TMP. The uncertainty of the effect of the RTA Act on Washtenaw County is likely to undermine this effort, particularly any referendum for local funding. AATA will no longer be able to guarantee that it will implement the plan if the local funding is approved.

The RTA Act is organized by County. Washtenaw County would be represented on the RTA Board by two members appointed by the Chair of the Washtenaw County Commission. Currently the AATA is an Act 55 Authority organized by the City of Ann Arbor. More than 80% of local funding for transit service in Washtenaw County comes from a dedicated property tax included in the Ann Arbor City Charter.

Major Issues with Specific Provisions

Section 7(2) and 7(3)– Coordination of Service

These provisions require the RTA to adopt a transit plan. The initial plan has to be the RTCC plan, which does not include Washtenaw County, except the end of one BRT route. What this would mean for Washtenaw County is not specified. It is one indication that Washtenaw County is something of an afterthought in the provisions of the RTA Act.

The RTA is required to coordinate the operating and capital plans of the transit agencies, presumably including AATA although the term “transit agencies” is not defined in the definitions in Section 2. The word “coordinate” is also not defined; it will be open to the interpretation of the RTA Board. It could be as little as collecting and organizing the plans of the transit agencies and working eliminate overlap or duplication. It could also be as much as determining the local service to be operated throughout the region, including Washtenaw County. For example, will AATA have to get RTA approval for local service changes?

The interpretation that RTA will have control over local service is increased by Section 8(4) on Coordination Directives. The section explicitly gives the RTA the power to issue directives to AATA affecting “routes, schedules, and fares,” but not limited to these areas. This would clearly permit the RTA to order AATA to add, revise, or delete service or change fares. There is no limitation on these coordination directives and the bill’s language specifies that the coordination directives pre-empt city, village, or township provisions or procedures. There is no mention of the relationship with funding. Theoretically, this provision would enable the RTA Board to order AATA to shift service from Ann Arbor, even if the local funding comes from Ann Arbor.

It is important to understand that whatever the intention initially, once this legislation is enacted, the RTA can expand control over local service in the future.

Section 8(1) – Funding and Grants

This provision would have the new RTA replace the RTCC as the designated recipient of federal funds from the Federal Transit Administration (FTA) for the Detroit urbanized area. The RTCC currently allocates federal formula funds between SMART and DDOT. This would now be done by the RTA

This provision would also make the RTA the designated recipient for federal formula funds for the Ann Arbor urbanized area. The situation in Washtenaw County is very different from the Detroit area, and the effect of this change would be much greater. The Ann Arbor Urbanized Area is over 200,000 population, and receives a allocation of Federal formula funds (Section 5307) separate from the Detroit Urbanized Area. AATA is currently the designated recipient of the formula funds, and is eligible to directly apply for and administer grants from the US Department of Transportation. AATA is responsible for planning and determining the use of these funds. AATA has used these funds primarily for capital replacement. For example, AATA has programmed and saved so that Federal formula funds have been available to fund all of AATA's replacement buses for more than 25 years. The use of these funds has been different for DDOT and SMART where Federal formula funds allocated to the RTCC have been used to fund annual operations to the maximum extent possible.

The Federal formula funds allocated to the Ann Arbor urbanized area have to be used in the urbanized area by Federal regulation, so that is not an issue. But changing the designated recipient to the RTA takes their use out of local control. What philosophy for their use will the RTA follow? To what extent will they pay attention local priorities?

At a minimum, this will add a layer of bureaucracy to all grant decisions which will have to go through the RTA Board. This will probably add two to three months, doubling or tripling the time required to make a change. This is currently the case with transportation planning which has to go through SEMCOG after being adopted by elected officials in Washtenaw County.

Section 11 provides for revenue bonds and specifies in section 11(5) that they are payable from "any available money of revenue sources." The unlimited language would potentially permit revenues from operations or local sources to be used to repay bonds for service in other jurisdictions.

Recommendation

AATA is enthusiastic about participating in this effort to achieve regional transit service. However, the timing of this legislation is a great concern. We are seeking a resolution that would permit us to complete the effort to reorganize as a countywide authority and begin implementation of the Transit Master Plan.

The simplest way to accomplish this would be to revise the bill to have Washtenaw County in 3-4 years. This has the added advantage of permitting the RTA to concentrate initially on the coordination of services in the remainder of the service area.

If the inclusion of Washtenaw County from the beginning is necessary, we would like to participate in an effort to craft language to specifically provide a level of temporary independence so that we can complete this process. This cannot be overstated - uncertainty of how the RTA Act as written will affect AATA will stall progress toward a countywide authority. We have to be able to answer questions about our role.

Finally, we would like to understand the purpose of changing the designated recipient status of AATA for federal funding to the RTA. We would like to explore whether the purpose can be accomplished without this change.