

CHAPTER 111

(Senate Bill 915)

AN ACT concerning

Washington Metropolitan Area Transit Authority – Finance and Governance

FOR the purpose of amending the Washington Metropolitan Area Transit Authority Compact in order to comply with certain federal requirements; increasing the number of directors on the Washington Metropolitan Area Transit Authority Board to include directors representing the federal government, subject to a certain requirement; providing for the appointment of federal directors and alternates; establishing an Office of the Inspector General within the Washington Metropolitan Area Transit Authority; providing for the duties and functions of the Office; providing that the ~~Director~~ head of the Office is the Inspector General; requiring that certain payments made by signatories to the Washington Metropolitan Area Transit Authority to match certain federal funds be made from certain dedicated funding sources; requiring the Maryland Department of Transportation to provide grants from the Transportation Trust Fund to the Washington Suburban Transit District for the purpose of funding Maryland's required share of local funds for the Washington Metropolitan Area Transit Authority to match certain federal funds; defining a certain term; clarifying language; making this Act subject to a certain contingency; and generally relating to the finance and governance of the Washington Metropolitan Area Transit Authority.

BY repealing and reenacting, with amendments,

Article – Transportation

Section 10–204 Title III Article III Section 5 and 9 and Article VII Section 18;
and 10–205

Annotated Code of Maryland
(2008 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Transportation

10–204.

TITLE III

ARTICLE III

ORGANIZATION AND AREA

5.

(a) The Authority shall be governed by a Board of [six] **EIGHT** Directors consisting of two Directors for each signatory **AND TWO FOR THE FEDERAL GOVERNMENT, ONE GOVERNMENT (ONE OF WHOM SHALL BE A REGULAR PASSENGER AND CUSTOMER OF THE BUS OR RAIL SERVICE OF THE AUTHORITY AUTHORITY)**. [For Virginia, the] ~~THE~~ Directors shall be appointed, ~~FOR VIRGINIA,~~ by the Northern Virginia Transportation Commission; for the District of Columbia, by the Council of the District of Columbia; [and] for Maryland, by the Washington Suburban Transit Commission; **AND FOR THE FEDERAL GOVERNMENT, BY THE ADMINISTRATOR OF GENERAL SERVICES**. For Virginia and Maryland, the Directors shall be appointed from among the members of the appointing body, except as otherwise provided herein, and shall serve for a term coincident with their term on the appointing body. A Director **FOR A SIGNATORY** may be removed or suspended from office only as provided by the law of the signatory from which he was appointed. The **NONFEDERAL** appointing authorities shall also appoint an alternate for each Director[, who]. **IN ADDITION, THE ADMINISTRATOR OF GENERAL SERVICES SHALL ALSO APPOINT TWO NONVOTING DIRECTORS MEMBERS WHO SHALL SERVE AS THE ALTERNATES FOR THE FEDERAL DIRECTORS. AN ALTERNATE DIRECTOR DIRECTOR** may act only in the absence of the Director for whom he has been appointed an alternate, except that, in the case of the District of Columbia where only one Director and his alternate are present, such alternate may act on behalf of the absent Director. Each alternate, **INCLUDING THE FEDERAL NONVOTING DIRECTORS DIRECTORS**, shall serve at the pleasure of the appointing authority. In the event of a vacancy in the Office of Director or alternate, it shall be filled in the same manner as an original appointment.

(b) Before entering upon the duties of his office each Director and alternate director shall take and subscribe to the following oath (or affirmation) of office or any such other oath or affirmation, if any, as the constitution or laws of the [signatory] ~~GOVERNMENT~~ **GOVERNMENT** he represents shall provide:

“I, ..., hereby solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of the state or political jurisdiction from which I was appointed as a Director (alternate director) of the Board of Washington Metropolitan Area Transit Authority and will faithfully discharge the duties of the office upon which I am about to enter.”

9.

(a) The officers of the Authority, none of whom shall be members of the board, shall consist of a general manager, a secretary, a treasurer, a comptroller, **AN**

INSPECTOR GENERAL, and a general counsel and such other officers as the board may provide. Except for the office of general manager, **INSPECTOR GENERAL**, and comptroller, the board may consolidate any of such other offices in one person. All such officers shall be appointed and may be removed by the board, shall serve at the pleasure of the board and shall perform such duties and functions as the board shall specify. The board shall fix and determine the compensation to be paid to all officers and, except for the general manager who shall be a full-time employee, all other officers may be hired on a full-time or part-time basis and may be compensated on a salary or fee basis, as the board may determine. All employees and such officers as the board may designate shall be appointed and removed by the general manager under such rules of procedure and standards as the board may determine.

(b) The general manager shall be the chief administrative officer of the Authority and, subject to policy direction by the board, shall be responsible for all activities of the Authority.

(c) The treasurer shall be the custodian of the funds of the Authority, shall keep an account of all receipts and disbursements and shall make payments only upon warrants duly and regularly signed by the chairman or vice-chairman of the board, or other person authorized by the board to do so, and by the secretary or general manager; provided, however, that the board may provide that warrants not exceeding such amounts or for such purposes as may from time to time be specified by the board may be signed by the general manager or by persons designated by him.

~~(D) (1) THERE IS AN OFFICE OF THE INSPECTOR GENERAL IN THE AUTHORITY.~~

~~(2) THE INSPECTOR GENERAL SHALL SERVE AS DIRECTOR OF THE OFFICE AND SHALL REPORT TO THE BOARD.~~

~~(3) THE OFFICE IS AN INDEPENDENT AND OBJECTIVE UNIT OF THE AUTHORITY THAT:~~

~~(I) CONDUCTS AND SUPERVISES AUDITS, PROGRAM EVALUATIONS, AND INVESTIGATIONS RELATING TO AUTHORITY ACTIVITIES;~~

~~(II) PROMOTES ECONOMY, EFFICIENCY, AND EFFECTIVENESS IN AUTHORITY ACTIVITIES;~~

~~(III) DETECTS AND PREVENTS FRAUD AND ABUSE IN AUTHORITY ACTIVITIES; AND~~

~~(IV) KEEPS THE INSPECTOR GENERAL SHALL REPORT TO THE BOARD AND HEAD THE OFFICE OF THE INSPECTOR GENERAL, AN INDEPENDENT AND OBJECTIVE UNIT OF THE AUTHORITY THAT CONDUCTS AND~~

SUPERVISES AUDITS, PROGRAM EVALUATIONS, AND INVESTIGATIONS RELATING TO AUTHORITY ACTIVITIES; PROMOTES ECONOMY, EFFICIENCY, AND EFFECTIVENESS IN AUTHORITY ACTIVITIES; DETECTS AND PREVENTS FRAUD AND ABUSE IN AUTHORITY ACTIVITIES; AND KEEPS THE BOARD FULLY AND CURRENTLY INFORMED ABOUT DEFICIENCIES IN AUTHORITY ACTIVITIES AS WELL AS THE NECESSITY FOR AND PROGRESS OF CORRECTIVE ACTION.

[(d)] (E) An oath of office in the form set out in § 5(b) of this article shall be taken, subscribed and filed with the board by all appointed officers.

[(e)] (F) Each director, officer and employee specified by the board shall give such bond in such form and amount as the board may require, the premium for which shall be paid by the Authority.

ARTICLE VII

FINANCING

18.

(a) Commitments on behalf of the portion of the zone located in Virginia shall be by contract or agreement by the Authority with the Northern Virginia Transportation District, or its component governments, as authorized in the Transportation District Act of 1964 (ch. 631, 1964 Acts of Virginia Assembly), to contribute to the capital required for the construction and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or any alteration, revision or amendment thereof, and for meeting expenses and obligations in the operation of such facilities. No such contract or agreement, however, shall be entered into by the Authority with the Northern Virginia Transportation District unless said District has entered into the contracts or agreements with its member governments, as contemplated by § 1(b)(4) of Article 4 of said act, which contracts or agreements expressly provide that such contracts or agreements shall inure to the benefit of the Authority and shall be enforceable by the Authority in accordance with the provisions of § 2, Article 5 of said act, and such contracts or agreements are acceptable to the Board. The General Assembly of Virginia hereby authorizes and designates the Authority as the agency to plan for and provide transit facilities and services for the area of Virginia encompassed within the zone within the contemplation of Article 1, § 3(c) of said act.

(b) Commitments on behalf of the portion of the zone located in Maryland shall be by contract or agreement by the Authority with the Washington Suburban Transit District, pursuant to which the Authority undertakes to provide transit facilities and service in consideration for the agreement by said district to contribute to the capital required for the construction and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or in any alteration, revision or

amendment thereof, and for meeting expenses and obligations incurred in the operation of such facilities.

(c) With respect to the federal government, the commitment or obligation to render financial assistance shall be created by appropriation or in such other manner, or by such other legislation, as the Congress shall determine. Commitments by the District of Columbia shall be by contract or agreement between the governing body of the District of Columbia and the Authority, pursuant to which the Authority undertakes, subject to the provisions of Section 20 hereof, to provide transit facilities and service in consideration for the undertaking by the District of Columbia to contribute to the capital required for the construction and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or in any alteration, revision or amendment thereof, and for meeting expenses and obligations incurred in the operation of such facilities.

~~(D) (1) IN THIS SUBSECTION, "DEDICATED FUNDING SOURCE" MEANS ANY SOURCE OF FUNDING THAT IS EARMARKED OR REQUIRED UNDER STATE OR LOCAL LAW TO BE USED TO MATCH FEDERAL APPROPRIATIONS AUTHORIZED UNDER TITLE VI, § 601, P.L. 110-432 FOR PAYMENTS TO THE AUTHORITY.~~

~~(2) ALL PAYMENTS MADE BY THE LOCAL SIGNATORY SIGNATORY GOVERNMENTS FOR THE AUTHORITY FOR THE PURPOSE OF MATCHING FEDERAL FUNDS APPROPRIATED IN ANY GIVEN YEAR AS AUTHORIZED UNDER TITLE VI, § 601, P.L. 110-432 REGARDING FUNDING OF CAPITAL AND PREVENTIVE MAINTENANCE PROJECTS OF THE AUTHORITY SHALL BE MADE FROM AMOUNTS DERIVED FROM A DEDICATED FUNDING SOURCE SOURCES.~~

(2) FOR PURPOSES OF THIS PARAGRAPH (D), A "DEDICATED FUNDING SOURCE" MEANS ANY SOURCE OF FUNDING THAT IS EARMARKED OR REQUIRED UNDER STATE OR LOCAL LAW TO BE USED TO MATCH FEDERAL APPROPRIATIONS AUTHORIZED UNDER TITLE VI, § 601, P.L. 110-432 FOR PAYMENTS TO THE AUTHORITY.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Transportation

10-205.

(a) In accordance with and subject to the principle that, if there is substantial State financial support for the planned rapid rail mass transit system in one metropolitan area of this State, there should be substantial State financial support for the planned rapid rail mass transit system in the other metropolitan area of this State, and subject to the appropriation requirements and budgetary provisions

of § 3–216(d) of this article, the Department shall provide for grants to the Washington Suburban Transit District in an amount equal to the current expenditures required of the Washington Suburban Transit District in accordance with capital contributions agreements between the Washington Metropolitan Area Transit Authority, the Washington Suburban Transit District, and other participating jurisdictions. The Washington Suburban Transit District shall consult with the Secretary of Transportation prior to the execution of any capital contributions agreement. Expenditures required of the Washington Suburban Transit District for projects and programs not included in the “Adopted Regional System – 1968” revised as of January 1, 1992, are only eligible for State funding in accordance with subsection [(e)] (F) of this section.

(b) (1) Subject to the appropriation requirements and budgetary provisions of § 3–216(d) of this article and upon receipt of an approval of a grant application in such form and detail as the Secretary shall reasonably require, the Department shall provide for annual grants to the Washington Suburban Transit District for a share of the operating deficits of the regional transit system for which the District is responsible. “Operating deficit” means operating costs less:

(i) The greater of operating revenues or 50 percent of the operating costs; and

(ii) All federal operating assistance.

(2) The Department’s share shall equal 100 percent of the operating deficit.

(c) Subject to the appropriation requirements and budgetary provision of § 3–216(d) of this article, the Department shall provide for grants to the Washington Suburban Transit District in an amount equal to 100 percent of the net debt service assigned to the Washington Suburban Transit District on bonds issued by the Washington Metropolitan Area Transit Authority. In no event shall the amount of net debt service, including the refinancing of any debt, required of the Washington Suburban Transit District exceed the amount presently assigned on a year by year basis to the Washington Suburban Transit District, and payable through the year 2014. Nothing in this article shall preclude the use of bond proceeds for capital improvements and replacements of the “Adopted Regional System – 1968” revised as of January 1, 1992.

(d) (1) In accordance with and subject to the principle that, if there is substantial State financial support for rapid rail and bus transit capital replacement costs in one metropolitan area of this State, there should be substantial State financial support for the costs of similar needs in the other metropolitan area of this State, and in recognition of the fact that timely replacement of capital facilities and equipment is essential to safe and reliable transit service, the Department shall provide grants to

fully fund the Washington Suburban Transit District's share of the Washington Metropolitan Area Transit Authority's capital equipment replacement programs.

(2) The grants under this subsection:

(i) Shall be made subject to the appropriation and budgetary provisions of § 3–216(d) of this article;

(ii) Shall be included in the State budget beginning in fiscal year 2000;

(iii) Notwithstanding any other provision of law, may be funded with revenues derived from:

1. Any State–enacted transportation fees or taxes; or

2. Federal transportation grants available to the State to fund transit capital equipment replacement; and

(iv) Shall be contingent on the receipt of a request by the District to the Department, based on annual capital improvements programs adopted by the Washington Metropolitan Area Transit Authority.

(E) SUBJECT TO THE APPROPRIATION REQUIREMENTS AND BUDGETARY PROVISIONS OF § 3–216(D) OF THIS ARTICLE, THE DEPARTMENT SHALL PROVIDE GRANTS FROM AMOUNTS DERIVED FROM THE TRANSPORTATION TRUST FUND TO THE WASHINGTON SUBURBAN TRANSIT DISTRICT FOR THE PURPOSE OF FUNDING MARYLAND'S REQUIRED SHARE OF LOCAL FUNDS FOR THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY TO MATCH ANY FEDERAL FUNDS APPROPRIATED IN ANY GIVEN YEAR AUTHORIZED UNDER TITLE VI, § 601, P.L. 110–432.

[(e)] (F) A grant by the Department to the Washington Suburban Transit District in excess of the provisions of subsection (a) of this section may be made only after approval by the Secretary.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act may not take effect until similar Acts are passed by the Commonwealth of Virginia and the District of Columbia; that the Commonwealth of Virginia and the District of Columbia are requested to concur in this Act of the General Assembly of Maryland by the enactment of substantially similar Acts; that the Department of Legislative Services shall notify the appropriate officials of the Commonwealth of Virginia, the District of Columbia, and the United States Congress of the enactment of this Act; and that upon the concurrence in this Act by the Commonwealth of Virginia, the District of Columbia, and the United States, the Governor of the State of Maryland shall issue a

proclamation declaring this Act valid and effective and shall forward a copy of the proclamation to the Executive Director of the Department of Legislative Services.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect July 1, 2009.

Approved by the Governor, April 14, 2009.