

PUBLIC LAW 104-322—OCT. 19, 1996

WASHINGTON METROPOLITAN AREA
TRANSIT COMPACT

Public Law 104-322
104th Congress

Joint Resolution

Oct. 19, 1996
[H.J. Res. 194]

Granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT OF CONGRESS TO AMENDMENTS TO COMPACT.

The Congress consents to the amendments of the State of Maryland (chapter 252, 1995 Acts of the Maryland General Assembly and chapter 489, 1996 Laws of Maryland), the amendments of the Commonwealth of Virginia (chapter 150, 1995 Acts of Assembly of Virginia), and the amendments of the District of Columbia (D.C. Law 11-138) of title III of the Washington Metropolitan Area Transit Regulation Compact. Such amendments are substantially as follows:

(1) Section 3 is amended to read as follows:

“Washington Metropolitan Area Transit Zone

Establishment.

“3. There is hereby created the Washington Metropolitan Area Transit Zone which shall embrace the District of Columbia, the cities of Alexandria, Falls Church and Fairfax and the counties of Arlington, Fairfax, and Loudoun and political subdivisions of the Commonwealth of Virginia located within those counties, and the counties of Montgomery and Prince George’s in the State of Maryland and political subdivisions of the State of Maryland located in said counties.”

(2) Subsection (a) of section 5 is amended to read as follows:

“(a) The Authority shall be governed by a Board of six Directors consisting of two Directors for each signatory. For Virginia, the Directors shall be appointed 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. 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 may be removed or suspended from office only as provided by the law of the signatory from which he was appointed. The appointing authorities shall also appoint an alternate for each Director, who 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 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.”.

(3) Subsection (a) of section 8 is amended to read as follows:

“(a) Four Directors or alternates consisting of at least one Director or alternate appointed from each Signatory, shall constitute a quorum and no action by the Board shall be effective unless a majority of the Board present and voting, which majority shall include at least one Director or alternate from each Signatory, concur therein; provided, however, that a plan of financing may be adopted or a mass transit plan adopted, altered, revised or amended by the unanimous vote of the Directors representing any two Signatories.”.

(4) Subsection (b) of section 14 is amended to read as follows:

“(b) It shall be the duty and responsibility of each member of the Board to serve as liaison between the Board and the body which appointed him to the Board. To provide a framework for regional participation in the planning process, the Board shall create technical committees concerned with planning and collection and analyses of data relative to decision-making in the transportation planning process and the Mayor and Council of the District of Columbia, the component governments of the Northern Virginia Transportation District and the Washington Suburban Transit District shall appoint representatives to such technical committees and otherwise cooperate with the Board in the formulation of a mass transit plan, or in revisions, alterations or amendments thereof.”.

(5)(A) Paragraph (1) of subsection (a) of section 15 is amended to read as follows:

“(1) The Mayor and Council of the District of Columbia, the Northern Virginia Transportation Commission and the Washington Suburban Transit Commission;”.

(B) Paragraph (3) of subsection (a) of section 15 is amended to read as follows:

“(3) the transportation agencies of the signatories;”.

(C) The last paragraph of section 15 is amended to read as follows:

“(b) A copy of the proposed mass transit plan, amendment or revision, shall be kept at the office of the Board and shall be available for public inspection. Information with respect thereto shall be released to the public. After thirty days’ notice published once a week for two successive weeks in one or more newspapers of general circulation within the zone, a public hearing shall be held with respect to the proposed plan, alteration, revision or amendment. The thirty days’ notice shall begin to run on the first day the notice appears in any such newspaper. The Board shall consider the evidence submitted and statements and comments made at such meeting and may make any changes in the proposed plan, amendment or revision which it deems appropriate and such changes may be made without further hearing.”.

Public
information.

Notice.

(6) Subsection (a) of section 70 is amended to read as follows:

“(a) As soon as practical after the closing of the fiscal year, an audit shall be made of the financial accounts of the Authority. The audit shall be made by qualified certified public accountants selected by the Board, who shall have no personal interest direct or indirect in the financial affairs of the Authority or any of its

officers or employees. The report of audit shall be prepared in accordance with generally accepted auditing principles and shall be filed with the Chairman and other officers as the Board shall direct. Copies of the report shall be distributed to each Director, to the Congress, to the Mayor and Council of the District of Columbia, to the Governors of Virginia and Maryland, to the Washington Suburban Transit Commission, to the Northern Virginia Transportation Commission and to the governing bodies of the political subdivisions located within the Zone which are parties to commitments for participation in the financing of the Authority and shall be made available for public distribution.”.

(7) Section 73 is amended to read as follows:

“Contracting and Purchasing

“73. (a)(1) Except as provided in subsections (b), (c), and (f) of this section, and except in the case of procurement procedures otherwise expressly authorized by statute, the Authority in conducting a procurement of property, services, or construction shall:

“(A) obtain full and open competition through the use of competitive procedures in accordance with the requirements of this Section; and

“(B) use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.

“(2) In determining the competitive procedure appropriate under the circumstances, the Authority shall:

“(A) solicit sealed bids if:

“(i) time permits the solicitation, submission, and evaluation of sealed bids;

“(ii) the award will be made on the basis of price and other price-related factors;

“(iii) it is not necessary to conduct discussions with the responding sources about their bids; and

“(iv) there is a reasonable expectation of receiving more than one sealed bid; or

“(B) request competitive proposals if sealed bids are not appropriate under clause (A) of this paragraph.

“(b) The Authority may provide for the procurement of property, services, or construction covered by this Section using competitive procedures but excluding a particular source in order to establish or maintain an alternative source or sources of supply for that property, service, or construction if the Authority determines that excluding the source would increase or maintain competition and would likely result in reduced overall costs for procurement of property, services, or construction.

“(c) The Authority may use procedures other than competitive procedures if:

“(1) the property, services, or construction needed by the Authority is available from only one responsible source and no other type of property, services, or construction will satisfy the needs of the Authority; or

“(2) the Authority’s need for the property, services, or construction is of such an unusual and compelling urgency that the Authority would be seriously injured unless the Authority limits the number of sources from which it solicits bids or proposals; or

“(3) the Authority determines that it is necessary in the public interest to use procedures other than competitive procedures in the particular procurement; or

“(4) the property or services can be obtained through federal or other governmental sources at reasonable prices.

“(d) For the purpose of applying subsection (c)(1) of this section:

“(1) in the case of a contract for property, services, or construction to be awarded on the basis of acceptance of an unsolicited proposal, the property, services, or construction shall be deemed to be available from only one responsible source if the source has submitted an unsolicited proposal that demonstrates a concept:

“(A) that is unique and innovative or, in the case of a service, for which the source demonstrates a unique capability to provide the service; and

“(B) the substance of which is not otherwise available to the Authority and does not resemble the substance of a pending competitive procurement.

“(2) in the case of a follow-on contract for the continued development or production of a major system or highly specialized equipment or the continued provision of highly specialized services, the property, services, or construction may be deemed to be available from only the original source and may be procured through procedures other than competitive procedures if it is likely that award to a source other than the original source would result in:

“(A) substantial duplication of cost to the Authority that is not expected to be recovered through competition; or

“(B) unacceptable delays in fulfilling the Authority’s needs.

“(e) If the Authority uses procedures other than competitive procedures to procure property, services, or construction under subsection (c)(2) of this section, the Authority shall request offers from as many potential sources as is practicable under the circumstances.

“(f)(1) To promote efficiency and economy in contracting, the Authority may use simplified acquisition procedures for purchases of property, services and construction.

“(2) For the purposes of this subsection, simplified acquisition procedures may be used for purchases for an amount that does not exceed the simplified acquisition threshold adopted by the Federal Government.

“(3) A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the procedures under paragraph (1) of this subsection.

“(4) In using simplified acquisition procedures, the Authority shall promote competition to the maximum extent practicable.

“(g) The Board shall adopt policies and procedures to implement this Section. The policies and procedures shall provide for publication of notice of procurements and other actions designed to secure competition where competitive procedures are used.

“(h) The Authority in its discretion may reject any and all bids or proposals received in response to a solicitation.”.

(8) Section 81 is amended to read as follows:

“Jurisdiction of Courts

“81. The United States District Courts shall have original jurisdiction, concurrent with the Courts of Maryland, Virginia and the District of Columbia, of all actions brought by or against the Authority and to enforce subpoenas issued under this Title. Any such action initiated in a State or District of Columbia Court shall be removable to the appropriate United States District Court in the manner provided by Act of June 25, 1948, as amended (28 U.S.C. 1446).”.

(9) Section 84 is amended to read as follows:

“Amendments and Supplements

“84. Amendments and supplements to this Title to implement the purposes thereof may be adopted by legislative action of any of the signatory parties concurred in by all of the others. When one signatory adopts an amendment or supplement to an existing section of the Compact, that amendment shall not be immediately effective, and the previously enacted provision(s) shall remain in effect in each jurisdiction until the amendment or supplement is approved by the other signatories and is consented to by Congress.”.

Approved October 19, 1996.

LEGISLATIVE HISTORY—H.J. Res. 194:

CONGRESSIONAL RECORD, Vol. 142 (1996):

Sept. 24, considered and passed House.

Oct. 3, considered and passed Senate.

