

“Stable and Reliable”

A Look at the History

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The current consideration of dedicated revenues for WMATA is not a new issue, and a look at the history of prior efforts may shed some light on the difficulty of the task at hand. The subject was very much an issue in the period 1979-1982, along with the consideration of Federal funding to support completion of rail system construction.

Early capital contributions for Metrorail came in the form of Federal guarantees for local borrowing, with the optimistic assumption that the system would have sufficient revenues to retire this debt. Later, these bond proceeds were supplemented by funds made available through the “trade-in” of Interstate Highway entitlements by jurisdictions which had concluded that building such highways was not a good use of funds.

However, by 1979 it was clear that additional funding would be required, and the region began efforts to enlist Federal support and contributions in light of the importance of the system to Federal government operations. Such funds were being sought outside of the Urban Mass Transit Act Funds made available across the nation.

Following the completion of alternatives analysis studies demanded by the Ford Administration, the Carter Administration, then in office, accepted the premise that the entire 101-mile system then on the regional plan should be completed and negotiations began with the Congress to develop such support.

In that process, the Administration strongly endorsed the need for dedicated taxes as a form of local support to mirror the Federal commitment. As stated in the House Report on the legislation, "...UMTA is communicating to the local jurisdictions, and particularly the statehouses in Maryland and Virginia, that a financial plan incorporating some form of a dedicated tax for Metro operations must be forthcoming."

Following lengthy negotiations, the House District of Columbia Committee produced a bill which would authorize the \$1.7 billion then estimated as the need to complete the system, including in that bill a provision that mandated local participating governments show their support. In the legislation, this was described as "a stable and reliable source of revenue" rather than a dedicated tax. In the hearings held on the bill, testimony and statements from DC Mayor Barry, Governor Hughes of Maryland and Governor Dalton of Virginia all pledged their effort to meet this requirement. Governor Dalton indicated, however, his opposition to a dedicated State or local tax. The U.S. Department of Transportation witness (Assistant Secretary Mortimer Downey), as noted in the House Report, "suggested that this problem be resolved by changing the wording to stable and reliable source of revenue."

With the support of the Administration, the House passed the bill (popularly known as the Stark-Harris bill in recognition of its chief proponents: Congressman Herb Harris of VA and Congressman Fortney "Pete" Stark of CA) by a roll-call vote of 261 to 125. The Senate took up the bill late in 1979, having amended the "stable and reliable" provision to extend to the bus system as well as rail operations. The Senate bill also defined the time frame for the execution of the provision. In addition to the

September 30, 1980 deadline for submission of a report, it set a date of August 15, 1982 for having the revenues in place, prior to the release of the first instalment of the newly-authorized capital funds. This time frame was identified as permitting Maryland and Virginia to consider funding options during their 1980 legislative sessions.

The Bill with its Senate amendments was accepted by the House and signed by President Carter on January 3, 1980. The relevant section is quoted below:

Requirement that Local Participating Governments Have Stable and Reliable Source of Revenue for Contributions for Bond Expenses and for Operating Expenses

“SEC. 16. (a) The Secretary of Transportation shall not make any grant under section 14(a) for the cost of construction of the Adopted Regional System, until the Secretary has determined that the local participating governments, or signatories (as defined in subparagraph (d) of paragraph I of Article I of title III of the Washington Metropolitan Area Transit Authority Compact) to the Compact, have provided a stable and reliable source of revenue sufficient to meet both (1) their payments to the Transit Authority under subsections (a) (4) and (b) (4) of section 15, relating to payment of the principal and interest on bonds issued by the Transit Authority, and (2) that part of the cost of operating and maintaining the Adopted Regional System that is in excess of revenues received from the Transit Authority from the operation of the system and any amount to be contributed for operating expenses by the Secretary of Transportation under any other provision of law.

“ (b) The Transit Authority, in consultation with each governmental entity that is a local participating government or signatory to the Compact as referred to in subsection (a) of this section, for the purposes of this Act, shall submit a program to the Secretary of Transportation on or before September 30, 1980, showing how each such governmental entity will have in place on or before August 15, 1982, a stable and reliable source of revenue to provide for its contributions (1) for payments to the Washington Metropolitan Area Transit Authority for the payment of principal and interest on bonds issued by the Transit Authority, and (2) for the cost of operating and maintaining the Adopted Regional System of the Washington Metropolitan Area Transit Authority.”

Implementation of the Stark-Harris “Stable and Reliable” provisions fell far short of what some had expected. The required program submittal in the summer of 1980 contained only broad statements of intent from the jurisdictions, deferring the issue

until the time that the Department of Transportation would have to certify these sources in order to release capital funds. Guidance from USDOT was not very detailed. It simply stated that the mechanism should be sufficient to provide the necessary funds, that it should be enacted into law and that “the executive and legislative entities have publicly committed themselves through official declarations to routinely making sufficient funds available through the budget process of the state and local jurisdictions or the funds generated are dedicated by law to meet the local share of the Metro costs.”

According to a 1983 GAO report, Urban Mass Transportation Administration officials indicate that they had given oral guidance to local jurisdictions that “70 to 75 percent of the stable and reliable funding sources to be from sources earmarked for WMATA.” However, it is not clear that this guidance was received or understood. The ability, both legal and political, for all jurisdictions to enact clearly dedicated sources proved limited. The District proposed and enacted legislation that dedicated several revenue sources, including its entire gas tax to “stable and reliable purposes.” However, this action was tempered by the fact that the Congress retained the ability to change or reappropriate any of the funds in the District’s budget. A small local gasoline tax in Virginia was pledged for WMATA purposes (and continues to be pledged today), but no wider action was taken. Maryland debated a dedication similar to that proposed by the District, but ultimately was reluctant to attempt something that was not being done across the entire region.

Ultimately, the requirement was met through promises from the jurisdictions that funding would flow through their normal budgetary process. Based on these

representations, the Secretary of Transportation certified on August 13, 1982 that the requirements had been met, opening the way to a flow of Stark-Harris capital funds for continued construction of the rail system.

Subsequently, at the time these funds were exhausted, the Congress did authorize a second round of Stark-Harris funding, with \$1.3 billion made available in 1991. No debate occurred over the stable and reliable requirements, since there was no provision in the original legislation that required any update or review subsequent to the 1982 determination.

In looking forward on the issue of Metro funding, it should be instructive to look at this experience and identify the factors that led to inaction and the steps that all players—WMATA, States, locals, Administration and Congress could take to make a new effort successful. Discussion at an early committee meeting would be useful.