



THE MARYLAND GENERAL ASSEMBLY  
ANNAPOLIS, MARYLAND 21401-1991

**JOINT COMMITTEE ON FEDERAL RELATIONS**

December 9, 2019

The Honorable Thomas V. Mike Miller, Jr., Co-Chairman  
The Honorable Adrienne A. Jones, Co-Chairman  
Members of the Legislative Policy Committee

Ladies and Gentlemen:

During the 2019 Interim, the Joint Committee on Federal Relations (1) held one briefing on the proposed reauthorization of federal capital funding for the Washington Metropolitan Area Transit Authority (WMATA) and Maryland's withholding of certain WMATA capital funding and (2) undertook its annual review of a portion of the interstate compacts of which Maryland is a member. These activities are summarized below.

**October 2, 2019 Briefing**

The committee held one briefing on October 2, 2019 at 1:00 pm in the William Amoss Room of the Miller Senate Office Building. The committee discussed two primary topics: (1) the proposed reauthorization of federal capital funding for WMATA and (2) Maryland's withholding of certain WMATA capital funding. The participants in the briefing included Andrew Perlstein, Legislative Assistant with the Office of Senator Ben Cardin; Pete K. Rahn, Secretary of the Maryland Department of Transportation; and Regina Sullivan, Vice President of Government Relations with WMATA.

Representatives of the Federal Highway Administration (FHWA) and Build America Bureau (BAB) were also invited to the briefing to discuss federal oversight of highway P3 projects and the extent to which that oversight is changing following a report by the U.S. Department of Transportation's Inspector General's office; however, due to an issue which arose just prior to the briefing, the FHWA and BAB representatives were not able to participate. That topic was not addressed at the briefing, but the committee requested that FHWA and BAB provide any available information on this subject which the entities believe will provide the committee sufficient background on these issues.

The briefing was live-streamed, and a recording of the briefing is available on the Maryland General Assembly website.

The Honorable Thomas V. Mike Miller, Jr., Co-Chairman  
The Honorable Adrienne A. Jones, Co-Chairman  
Members of the Legislative Policy Committee  
Page 2

**Presentation by Andrew Perlstein – Legislative Assistant  
Office of Senator Ben Cardin**

Andrew Perlstein's presentation covered the major similarities and differences between H.R. 2520 – the Metro Accountability and Investment Act; and S. 1663 – the Metro Safety, Accountability, and Investment Act of 2019.

As background, the 2008 Passenger Rail Investment and Improvement Act (PRIIA) authorized federal capital funding of \$150 million per year for 10 years for WMATA; however, the original authorization ended in federal fiscal year 2019. Although there was no authorization in federal fiscal year 2020, the presidential budget request included \$150 million to maintain funding at the current level. Despite this, Mr. Perlstein stated that the system is in a much stronger position with a long-term funding authorization.

Both bills reauthorize the capital funding for WMATA, and authorize additional funding, but in somewhat different ways. H.R. 2520 reauthorizes the base grants at \$2 billion over 10 years (equivalent to the existing \$150 million per year plus an additional \$50 million per year), with the additional funds to be used for operating expenses of the WMATA Office of Inspector General and WMATA generally. The reauthorized (and additional) funding is conditioned on reforms to the WMATA Office of Inspector General, including the establishment of independent hiring, budget, and procurement authorities for the office. Further, the bill authorizes an additional \$2 billion in grants over 20 years if (1) WMATA meets various reliability, safety, and cost efficiency measures developed by the Secretary of the U.S. Department of Transportation and (2) the regional partners establish a dedicated funding source for capital projects that is expected to raise, in total, at least \$300 million annually. S. 1663 reauthorizes grant funding at current levels (\$150 million per year), and authorizes an additional \$50 million per year provided that certain conditions established by the bill are met, including WMATA Office of Inspector General reforms, the establishment of bus and rail safety task forces, and the implementation of specified capital program and planning procedures and reporting. Finally, S. 1663 would generally prohibit the use of financial assistance made available to WMATA under the Act for the acquisition of rail rolling stock from a manufacturer related legally or financially to a corporation based in a specifically-defined nonmarket economy country.

Mr. Perlstein indicated that, at the time of the briefing, neither bill had advanced as a stand-alone bill, but it was expected that the bills would receive serious consideration for inclusion in larger legislation, in particular surface transportation reauthorization bills. In essence, the bills were identified as markers of what the sponsors representing the regional partners would like to see happen.

**Presentation by Pete K. Rahn – Secretary  
Maryland Department of Transportation**

Secretary Rahn's comments at the briefing focused primarily on the withholding of \$55.6 million in capital funds appropriated in the Maryland budget for WMATA. However, by the time of the briefing, Secretary Rahn noted that the WMATA Board voted to approve a multijurisdictional Capital Funding Agreement and took steps necessary to form a Dedicated Funding Agreement with Maryland. As described by Secretary Rahn, the Maryland-WMATA Dedicated Funding Agreement requires WMATA to have a detailed 6 year capital budget plan for projects, with a level of detail reminiscent of Maryland's Consolidated Transportation Plan. Further, WMATA would be required to produce monthly and quarterly project reports, a debt policy, and a robust auditing policy. With these reforms planned, the State released approximately \$83 million marked for WMATA on October 1, 2019, which included most of the withheld funds (the fiscal 2020 first quarter payment of dedicated funding – one half of the \$83 million), plus the second quarter payment of dedicated funding. At the time of the briefing, approximately \$13 million of the \$55.6 million in withheld funds remained withheld due to unresolved audit issues associated with other capital funding that Maryland provides to WMATA separately from the dedicated funding. Secretary Rahn indicated he felt confident those issues would be resolved.

Secretary Rahn also (1) further discussed the WMATA capital planning process; (2) provided additional detail on MDOT's audit concerns regarding capital funding provided by Maryland; (3) and discussed the use of the technique of withholding funding to address the State's concerns.

Finally, Secretary Rahn provided his perspective on the importance of both the proposed reauthorization of federal capital funding for WMATA as well as the safety and oversight measures included in S. 1663 and H.R. 2520.

**Presentation by Regina Sullivan – Vice President of Government Relation  
WMATA**

Ms. Sullivan's comments at the briefing focused both on how federal funding impacts the WMATA mission and on WMATA's experiences as a result of Maryland withholding capital funding. WMATA has used funding under PRIIA to maintain the safety of its operations and the system's state of good repair as required under the Act. Such investments include the rehabilitation of facilities, the development of testing facilities for railcars, and an investment in railcars in an effort to improve the system overall. Improvements have also been made to the track and communications systems, including the implementation of a 700 MHz radio system to improve communications between WMATA employees and emergency responders. Further, WMATA continues to make improvements to its station infrastructure, including its ongoing rehabilitation project for elevators and escalators. Ms. Sullivan noted that all this translated into improvements

The Honorable Thomas V. Mike Miller, Jr., Co-Chairman  
The Honorable Adrienne A. Jones, Co-Chairman  
Members of the Legislative Policy Committee  
Page 4

WMATA has seen in key performance indicators, including on-time performance, safety, and railcar reliability.

As for the withholding, Ms. Sullivan noted that WMATA had been monitoring the bond market and rating agencies and keeping these groups apprised of the status of Maryland's withholding of funding. As to the dedicated funding agreement (the earlier lack of which had been a factor in the withholding), Ms. Sullivan noted that while it is not required by statute, Virginia also has such an agreement with WMATA, and that the District of Columbia was working on an agreement at the time of the briefing. Further, regarding audit issues that had factored into the withholding, WMATA representatives, including the Chief Internal Auditor, had met with MDOT, provided information associated with the audit issues, and were working to resolve those issues.

This portion of the briefing briefly focused on Metrobus. While Metrorail ridership is growing, Ms. Sullivan noted that Metrobus ridership is falling. When surveyed, riders wanted reliability and speed, two things which WMATA, per Ms. Sullivan, cannot entirely control as it does not own the roads on which its buses operate. Things such as the proliferation of bus rapid transit and transit prioritization, which require the support of the jurisdictions, would benefit the Metrobus program.

Ms. Sullivan also addressed questions about (1) the impact of jurisdictions withholding funding; (2) additional detail on WMATA capital planning and resolution of Maryland's audit concerns; (3) WMATA's clean audits for the system overall and Metrorail's increased ridership and transit-oriented development successes; (4) clarification regarding the capital funding agreement for the non-dedicated capital funding; (5) WMATA's management of large D.C events; (6) personal safety on Metro; (7) potential fare increases; and (8) any future safety recommendations to bring to the committee's attention.

### **Letter of Support for S. 1663 and H.R. 2520**

During the briefing, the idea of sending a letter of support for H.R. 2520 and S. 1663 was raised. We, in our individual capacity as the chairs of the committee, sent letters of support for these bills, on November 25, to the House Committee on Transportation and Infrastructure and the Senate Committee on Banking, Housing, and Urban Affairs.

### **Annual Interstate Compact Review**

The joint committee conducts an annual review of Maryland's membership in various interstate compacts, covering all compacts over a four-year cycle. The review focuses on whether Maryland's continued membership in the compacts serves the interests of the State and whether effective implementation of the compacts requires legislative modification. This interim, committee staff sent questionnaires to the State agencies involved with each of the compacts and

prepared summaries based on the agencies' responses, for the following compacts up for review this year:

- Education Commission of the States;
- Interstate Agreement on Qualifications of Educational Personnel;
- Interstate Compact on Adoption and Medical Assistance;
- Interstate Compact on Mental Health;
- Interstate Compact on the Placement of Children;
- Interstate Library Compact;
- Interstate Wildlife Violator Compact;
- Nurse Licensure Compact;
- Potomac Highlands Airport Authority; and
- Southern Regional Education Board.

The State agencies involved with each of these compacts indicated that Maryland's membership in the compacts continues to serve the interests of the State. The agencies indicated that no legislative modifications are needed, with the exception of the Department of Human Services' (DHS) indication that there is a need for the introduction of the new Interstate Compact *for* the Placement of Children, to replace the existing Interstate Compact *on* the Placement of Children.

DHS indicates that the new Interstate Compact for the Placement of Children will assist all states in providing a more uniform system of placing children in safe and stable homes, and one of the most significant changes should be a legal framework that will provide for timely placements across state lines. However, to date only 12 states have adopted the new compact (since the mid-2000's, when it was finalized) and at least 35 states must adopt it in order for it to go into effect. DHS does not, at the moment, have plans to introduce departmental legislation to implement the new compact. The department indicates it has prioritized other critical issues and projects that must be completed before they can consider implementation of the new compact. The Joint Committee on Federal Relations may address the new Interstate Compact for the Placement of Children, and whether the committee could play a role in facilitating its adoption, next interim.

We have also continued to pursue a resolution to inconsistencies between Maryland's and Virginia's annotated codes with regard to whether changes to the Potomac River Compact which were enacted in 2007 and 2013 by Maryland and Virginia are in effect or not. This issue was

The Honorable Thomas V. Mike Miller, Jr., Co-Chairman  
The Honorable Adrienne A. Jones, Co-Chairman  
Members of the Legislative Policy Committee  
Page 6

researched by committee staff during the 2018 interim and we have continued to pursue a resolution this interim, potentially through clarifying legislation. We are currently in the process of seeking comment from DNR on draft clarifying legislation.

Sincerely,



Jeff Waldstreicher  
Senate Co-Chair



Delegate Alfred C. Carr, Jr.  
House Co-Chair

JW:ACC/SDK:MJM/sdb

cc: Victoria Gruber  
Ryan Bishop  
Alexandra Hughes  
Jake Weissmann