

MEMORANDUM

TO: Ed Johnson, Director, Capital Area MPO
FROM: Wib Gulley, General Counsel, Triangle Transit
RE: Proposed Intermodal Funding legislation
DATE: April 9, 2008

You have asked me to summarize the proposed draft Congestion Relief and Intermodal Fund legislation (Intermodal Fund bill) being developed by the 21st Century Committee and in light of the recommendations of the Special Transit Advisory Commission (STAC). As you know, the Intermodal Fund bill is still being considered by the 21st Century Committee and will certainly undergo additional review and possible revisions in the General Assembly. Thus any explanation of the current bill is a bit like trying to describe a moving target, but here goes:

As drafted, the bill has several major sections. The first section of the bill creates an Intermodal Fund to increase and help assure a state share of funding for public transportation to local governments, short line and other railroads, and state ports. The bill says that state grants of up to 25% for a "public transportation purpose" may be given to cities, counties and regional public transportation authorities. No grant may be made unless the application is backed by all MPO's whose service area is impacted, there are local land use and planning policies that support transit, and "adequate and sustainable" funding is established for the project costs.

The next main part of the draft bill would allow the Triangle's three core counties (Wake, Durham and Orange) and the Triad's two core counties (Guilford and Forsyth) to authorize a regional transportation authority to levy a ½ cent sale and use tax to support public transit. The new revenue source offered by this legislation could provide significant funding for the region's transit initiatives, including proposals such as those for new bus and rail passenger services under final review by the STAC.

This part of the bill allows one or more of the three Triangle counties to create a special district for the tax, but the county Board of Commissioners by majority vote must first adopt a "financial plan" which sets out the "equitable use" of the tax revenues. Each Board of Commissioners must also vote to hold a referendum on the sales tax, and the referendum must pass by a majority vote before the tax may be levied. The tax itself must be levied and collected by the regional transportation authority (i.e., Triangle Transit) but only after adoption of the financial plan which governs how the funds would be spent and approval by the voters in the referendum.

In considering whether to implement the new sales tax source of revenues and using those funds to implement the STAC's recommendations, it is understandable that several concerns might arise among local elected officials in the Triangle. Perhaps the central concern from local elected leaders would be how to fund a truly regional transit plan while providing safeguards to insure each local government that it will receive a fair and equitable share of the benefits. There is nothing new or unusual about this concern; indeed, it is the central challenge with most regional initiatives.

There are important provisions in the draft bill that attempt to strike a good balance between the needs for a regional plan and for local safeguards. To encourage a regional approach to what most citizens feel is a regional transportation challenge, the bill does several things: (1) it provides that the new sales tax revenues would be provided to a regional transportation authority created pursuant to state statute; (2) it requires that the regional transportation authority develop a regional financial plan which must provide for "the equitable use" of these funds; and (3) it requires that the new sales tax revenues be used only in accordance with the regional financial plan.

At the same time, the bill can provide substantial safeguards for the local elected officials in the region:

(1) no sales tax can be levied under the bill unless an advisory referendum has first been held by each County considering the tax and no referendum may be held unless it is authorized first by a majority of the Board of Commissioners;

(2) as noted above, the new tax revenues can only be used to implement the regional financial plan developed by the regional authority, and we believe that this plan must be adopted by the Board of Commissioners prior to the levy of the sales tax. We have also recommended that this financial plan be a long-range or multi-year investment plan which would specify how funds were used for new bus service, new rail service, maintenance and operations of each, and give a breakdown of use of funds by County. This plan would govern the use of the new revenues and would give a strong, binding safeguard to each local government of the equitable and fair use of the funds.

Additionally, we have also recommended that the bill state clearly that if any County which is part of a regional RTIP chooses not to hold a referendum or chooses not to approve the RTIP, then no new sales tax may be levied in that County. This will insure that the County Commissioners have complete discretion at several points as to whether to join in a regional transit plan or not.

I believe that this balance of local safeguards or controls, together with the bill's requirements that the new funds be invested in a regional transit plan, provide a effective, balanced approach for the Triangle region to make great progress in meeting our daunting transportation challenges.

The next part of the bill provides a ¼ cent sale and use tax option, with similar requirements, to (1) counties over 160,000 population, (2) are contiguous to Wake, Durham, Orange, Mecklenburg, Guilford, or Forsyth, or (3) are members of PART. The following section of the bill extends to Mecklenburg the same vehicle registration fee for public transportation option that the Triangle and Triad current have. The maximum amount for this vehicle registration fee is adjusted for inflation from \$5.00 to \$7.00.

The final transit portion of the bill allows municipalities in those counties which could levy a vehicle registration fee or rental vehicle tax to levy either or both of those taxes if and to the extent that the county does not exercise that authority, provided that the funds are used for financing, constructing, operating and maintaining a public transportation system.