

104TH CONGRESS
2D SESSION

S. J. RES. 62

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.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 1996

Mr. WARNER, (for himself, Mr. ROBB, Mr. SARBANES, and Ms. MIKULSKI) introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

JOINT RESOLUTION

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.

1 *Resolved by the Senate and House of Representatives*

2 *of the United States of America in Congress assembled,*

3 **SECTION 1. CONSENT OF CONGRESS TO AMENDMENTS TO**

4 **COMPACT.**

5 The Congress consents to the amendments of the

6 State of Maryland (chapter 252, 1995 Acts of the Mary-

7 land General Assembly and chapter 489, 1996 Laws of

8 Maryland), the amendments of the Commonwealth of Vir-

1 ginia (chapter 150, 1995 Acts of Assembly of Virginia),
2 and the amendments of the District of Columbia (D.C.
3 Law 11–138) of title III of the Washington Metropolitan
4 Area Transit Regulation Compact. Such amendments are
5 substantially as follows:

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

7 “WASHINGTON METROPOLITAN AREA TRANSIT ZONE

8 “3. There is hereby created the Washington Metro-
9 politan Area Transit Zone which shall embrace the Dis-
10 trict of Columbia, the cities of Alexandria, Falls Church
11 and Fairfax and the counties of Arlington, Fairfax, and
12 Loudoun and political subdivisions of the Commonwealth
13 of Virginia located within those counties, and the counties
14 of Montgomery and Prince George’s in the State of Mary-
15 land and political subdivisions of the State of Maryland
16 located in said counties.”.

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

19 “(a) The Authority shall be governed by a Board of
20 six Directors consisting of two Directors for each signa-
21 tory. For Virginia, the Directors shall be appointed by the
22 Northern Virginia Transportation Commission; for the
23 District of Columbia, by the Council of the District of Co-
24 lumbia; and for Maryland, by the Washington Suburban
25 Transit Commission. For Virginia and Maryland, the Di-
26 rectors shall be appointed from among the members of the

1 appointing body, except as otherwise provided herein, and
2 shall serve for a term coincident with their term on the
3 appointing body. A Director may be removed or suspended
4 from office only as provided by the law of the signatory
5 from which he was appointed. The appointing authorities
6 shall also appoint an alternate for each Director, who may
7 act only in the absence of the Director for whom he has
8 been appointed an alternate, except that, in the case of
9 the District of Columbia where only one Director and his
10 alternate are present, such alternate may act on behalf
11 of the absent Director. Each alternate shall serve at the
12 pleasure of the appointing authority. In the event of a va-
13 cancy in the Office of Director or alternate, it shall be
14 filled in the same manner as an original appointment.”.

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

17 “(a) Four Directors or alternates consisting of at
18 least one Director or alternate appointed from each Signa-
19 tory, shall constitute a quorum and no action by the Board
20 shall be effective unless a majority of the Board present
21 and voting, which majority shall include at least one Direc-
22 tor or alternate from each Signatory, concur therein; pro-
23 vided, however, that a plan of financing may be adopted
24 or a mass transit plan adopted, altered, revised or amend-

1 ed by the unanimous vote of the Directors representing
2 any two Signatories.”.

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

5 “(b) It shall be the duty and responsibility of each
6 member of the Board to serve as liaison between the
7 Board and the body which appointed him to the Board.
8 To provide a framework for regional participation in the
9 planning process, the Board shall create technical commit-
10 tees concerned with planning and collection and analyses
11 of data relative to decisionmaking in the transportation
12 planning process and the Mayor and Council of the Dis-
13 trict of Columbia, the component governments of the
14 Northern Virginia Transportation District and the Wash-
15 ington Suburban Transit District shall appoint represent-
16 atives to such technical committees and otherwise cooper-
17 ate with the Board in the formulation of a mass transit
18 plan, or in revisions, alterations or amendments thereof.”.

19 (5) Subsections (a)(1), (a)(3), and (b) of sec-
20 tion 15 are amended to read as follows:

21 “(a) Before a mass transit plan is adopted, altered,
22 revised or amended, the Board shall transmit such pro-
23 posed plan, alteration, revision or amendment for com-
24 ment to the following and to such other agencies as the
25 Board shall determine:

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

5 “(2) the transportation agencies of the signato-
6 ries;

7 “(b) A copy of the proposed mass transit plan,
8 amendment or revision, shall be kept at the office of the
9 Board and shall be available for public inspection. Infor-
10 mation with respect thereto shall be released to the public.
11 After thirty days’ notice published once a week for two
12 successive weeks in one or more newspapers of general cir-
13 culation within the zone, a public hearing shall be held
14 with respect to the proposed plan, alteration, revision or
15 amendment. The thirty days’ notice shall begin to run on
16 the first day the notice appears in any such newspaper.
17 The Board shall consider the evidence submitted and
18 statements and comments made at such meeting and may
19 make any changes in the proposed plan, amendment or
20 revision which it deems appropriate and such changes may
21 be made without further hearing.”.

22 (6) Subsection (a) of section 70 is amended to
23 read as follows‘

24 “(a) As soon as practical after the closing of the fiscal
25 year, an audit shall be made of the financial accounts of

1 the Authority. The audit shall be made by qualified cer-
2 tified public accountants selected by the Board, who shall
3 have no personal interest direct or indirect in the financial
4 affairs of the Authority or any of its officers or employees.
5 The report of audit shall be prepared in accordance with
6 generally accepted auditing principles and shall be filed
7 with the Chairman and other officers as the Board shall
8 direct. Copies of the report shall be distributed to each
9 Director, to the Congress, to the Mayor and Council of
10 the District of Columbia, to the Governors of Virginia and
11 Maryland, to the Washington Suburban Transit Commis-
12 sion, to the Northern Virginia Transportation Commission
13 and to the governing bodies of the political subdivisions
14 located within the Zone which are parties to commitments
15 for participation in the financing of the Authority and
16 shall be made available for public distribution.”.

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

18 “CONTRACTING AND PURCHASING

19 “73. (a)(1) Except as provided in subsections (b), (c),
20 and (f) of this section, and except in the case of procure-
21 ment procedures otherwise expressly authorized by stat-
22 ute, the Authority in conducting a procurement of prop-
23 erty, services, or construction shall:

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

1 “(B) use the competitive procedure or combina-
2 tion of competitive procedures that is best suited
3 under the circumstances of the procurement.

4 “(2) In determining the competitive procedure appro-
5 priate under the circumstances, the Authority shall:

6 “(A) solicit sealed bids if:

7 “(i) time permits the solicitation, submis-
8 sion, and evaluation of sealed bids;

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

11 “(iii) it is not necessary to conduct discus-
12 sions with the responding sources about their
13 bids; and

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

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

19 “(b) The Authority may provide for the procurement
20 of property, services, or construction covered by this Sec-
21 tion using competitive procedures but excluding a particu-
22 lar source in order to establish or maintain an alternative
23 source or sources of supply for that property, service, or
24 construction if the Authority determines that excluding
25 the source would increase or maintain competition and

1 would likely result in reduced overall costs for procure-
2 ment of property, services, or construction.

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

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

10 “(2) the Authority’s need for the property, serv-
11 ices, or construction is of such an unusual and com-
12 pelling urgency that the Authority would be seriously
13 injured unless the Authority limits the number of
14 sources from which it solicits bids or proposals; or

15 “(3) the Authority determines that it is nec-
16 essary in the public interest to use procedures other
17 than competitive procedures in the particular pro-
18 curement; or

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

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

24 “(1) in the case of a contract for property, serv-
25 ices, or construction to be awarded on the basis of

1 acceptance of an unsolicited proposal, the property,
2 services, or construction shall be deemed to be avail-
3 able from only one responsible source if the source
4 has submitted an unsolicited proposal that dem-
5 onstrates a concept:

6 “(A) that is unique and innovative or, in
7 the case of a service, for which the source dem-
8 onstrates a unique capability to provide the
9 service; and

10 “(B) the substance of which is not other-
11 wise available to the Authority and does not re-
12 semble the substance of a pending competitive
13 procurement.

14 “(2) in the case of a follow-on contract for the
15 continued development or production of a major sys-
16 tem or highly specialized equipment or the continued
17 provision of highly specialized services, the property,
18 services, or construction may be deemed to be avail-
19 able from only the original source and may be pro-
20 cured through procedures other than competitive
21 procedures if it is likely that award to a source other
22 than the original source would result in:

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

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

3 “(e) If the Authority uses procedures other than com-
4 petitive procedures to procure property, services, or con-
5 struction under subsection (c)(2) of this section, the Au-
6 thority shall request offers from as many potential sources
7 as is practicable under the circumstances.

8 “(f)(1) To promote efficiency and economy in con-
9 tracting, the Authority may use simplified acquisition pro-
10 cedures for purchases of property, services and construc-
11 tion.

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

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

21 “(4) In using simplified acquisition procedures, the
22 Authority shall promote competition to the maximum ex-
23 tent practicable.

24 “(g) The Board shall adopt policies and procedures
25 to implement this Section. The policies and procedures

1 shall provide for publication of notice of procurements and
2 other actions designed to secure competition where com-
3 petitive procedures are used.

4 “(h) The Authority in its discretion may reject any
5 and all bids or proposals received in response to a solicita-
6 tion.”.

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

8 “JURISDICTION OF COURTS

9 “81. The United States District Courts shall have
10 original jurisdiction, concurrent with the Courts of Mary-
11 land, Virginia and the District of Columbia, of all actions
12 brought by or against the Authority and to enforce sub-
13 poenas issued under this Title. Any such action initiated
14 in a State or District of Columbia Court shall be remov-
15 able to the appropriate United States District Court in
16 the manner provided by Act of June 25, 1948, as amended
17 (28 U.S.C. 1446).”.

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

19 “AMENDMENTS AND SUPPLEMENTS

20 “84. Amendments and supplements to this Title to
21 implement the purposes thereof may be adopted by legisla-
22 tive action of any of the signatory parties concurred in
23 by all of the others. When one signatory adopts an amend-
24 ment or supplement to an existing section of the Compact.
25 that amendment shall not be immediately effective, and
26 the previously enacted provision(s) shall remain in effect

1 in each jurisdiction until the amendment or supplement
2 is approved by the other signatories and is consented to
3 by Congress.”.

○