Primer

From the House Appropriations Committee

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Transportation: Mass Transit

Early Years

The Commonwealth's commitment to public transit began on January 22, 1968, when Gov. Raymond P. Shafer signed two bills into law. The first bill became the Pennsylvania Transportation Assistance Authority Act of 1967 (Act 7), and the second bill created the Pennsylvania Urban Mass Transportation Law of 1967 (Act 8).

These two bills were enacted to raise funds to match federal funding pursuant to the federal Urban Mass Transportation Act of 1964. Congress and President Lyndon Johnson wanted to address the precarious condition of transit as it had evolved over the past several decades. Transit services had been provided for by private rail and bus companies, but many of these companies ran into financial difficulties, forcing some into bankruptcy and causing others to significantly reduce services.

In Pennsylvania, several jurisdictions had created authorities to take over and offer transit services. After the Second World War, Altoona utilized the Municipality Authorities Act to take over the failed Altoona and Logan Valley Electric Railway Company. In 1963, the Port Authority of Allegheny County adopted a plan to take over the Pittsburgh Railways Company as well as thirty smaller bus companies. Services began on March 1, 1964.

In 1964, the General Assembly created the Southeastern Pennsylvania Transportation Authority, which began operations in 1968 when it took over operations of the private Philadelphia Transportation Company. The following year SEPTA took over the Red Arrow, extending its service to the suburbs.

The purpose and intent of the new state commitment to transit was articulated in Act 8. The General Assembly found that "the effectiveness of housing, urban renewal, highway, industrial development, and other programs are being jeopardized by the deterioration or inadequate provision of urban common carrier mass transportation facilities and services, the intensification of traffic congestion, and the lack of coordinated transportation and other development planning on a comprehensive and continuing basis." Thus, it was declared to be the policy of the General Assembly to provide financial assistance for the development of efficient and coordinated urban common carrier mass transportation systems, facilities and services."

Specifically, Act 7 created an authority to disburse bond-financed capital funding, and Act 8 provided a mechanism to help offset operating costs, which was funded at roughly $100 million annually.

In 1972, Gov. Milton J. Shapp signed into law Acts 338 and 339 amending the State Lottery Law (Act 91 of 1971) and the Pennsylvania Urban Mass Transportation Assistance Law, respectively, to provide funding for free transit services to senior citizens during off-peak hours and weekends. The first state funds were disbursed in FY 1973/74.

Acts 7 and 8 provided the Administration discretion in determining how to fund each transit agency, and during this early period transit services and the cost of those services grow, which led the General Assembly to enact Act 101 of 1980, signed by Gov. Dick Thornburgh. Act 101 attempted to distribute the funds more equitably, and limited the amount of state subsidies transit agencies could receive and established minimum revenues to be collected at the fare boxes. Act 101 also created the shared ride program to help reduce fares for the elderly, and state funds were first disbursed in FY 1984/85. Additionally, Act 101 repealed the Pennsylvania Transportation Assistance Authority Act (Act 7 of 1968), transferring capital budgeting responsibilities to the Department of Transportation.

On October 16, 1987, Gov. Robert P. Casey signed S.B. 516 into law (Act 73), which established an allocation formula based on historical experience. Act 73 attempted to bring consistency and predictability to transit funding while removing constraints to growth that were imposed by Act 101.

Because funding for transit was based on the discretion of the General Assembly on an annual basis, which obviously was dependent upon the overall budget situation at the time, advocates for transit were concerned about predictability of funding. The idea of dedicated funding was therefore proposed to improve predictability and increase support for transit.

In 1991, Gov. Casey signed H.B. 840 into law (Act 26), dedicating new revenues for transit from five sources: a $1 fee on new tires, a three percent lease tax on motor vehicles, a $2 per day fee on motor vehicle rentals, a six percent periodical tax, and a tax of 12 mills on the depreciated book value of public utility realty property (the Public Utility Realty Tax or PURTA). The funds from these five sources were deposited in the Public Transportation Assistance Fund (PTAF) for distribution by formula to the urban and rural transit organizations.

Act 40 of 1991 provided for the transfer of 0.44 percent of all revenues received from the states six percent Sales and Use Tax (SUT) to PTAF, which approximates the revenues received from a six percent SUT tax on periodicals. Act 48 of 1994 exempted class 4 or larger trucks from the three percent lease tax but compensated PTAF by providing an additional transfer of 0.09% of Sales and Use Tax revenues.

Although PTAF was expected to bring in $200 million for transit, it only generated $140 million in the first year (1991/92), $151 million in the second (1992/93), and $160 million for the third (1993/94). To date, PTAF has not generated $200 million. Even in FY 2007/08, PTAF revenues were only $183 million.

In 1991, the General Assembly passed the Lottery Fund Preservation Act (Act 36) in order to address the growing cost of services mandated on the Fund, which were outstripping revenue growth. Beginning in FY 1992/93, the General Assembly began appropriating General Fund monies to displace some of the Lottery Funds dedicated for free transit services to senior citizens.

On April 17, 1997, Gov. Tom Ridge signed H.B. 67 into law (Act 3), creating an additional source of dedicated funding. The "Supplemental Public Transportation Assistance Funding" provides for the transfer of an additional 1.22% of the revenues from the Sales and Use Tax, up to a maximum of $75 million. The transfer reached its maximum in the first year. Additionally, Gov. Ridge pledged to increase bond-financed capital transit projects to $125 million annually plus another $25 million in federal flex funding for the remainder of his Administration.

The formula for the distribution of Supplemental Public Transportation Assistance Funding differs from the PTAF formula because a portion of the funds are intended to replace discontinued federal assistance for operating expenses.

In 1999, Gov. Ridge signed S.B. 557 into law (Act 4), partially restoring funding to PTAF due to a loss of Public Utility Realty Tax revenues resulting from the deregulation of utilities. The Electricity Generation Customer Choice and Competition Act (1995 Act 138) effected the tax base resulting in a significant loss of funds. Amending the Tax Reform Code, Act 4 imposed on public utilities an additional tax of 7.6 mills on each dollar of State taxable value of its utility.

21st Century

On December 23, 2003, Gov. Rendell signed H.B. 200 into law (Act 46), which amended the tax code to remove the Public Utility Realty Tax (PURTA) portion of Pennsylvania Transportation Assistance Fund and replace it with an additional Sales and Use Tax revenue transfer of 0.417%. The goal was to replace

PURTA with a revenue source which had greater consistency and predictability.

In 2004, it became clear that transit agencies across the state were running budget shortfalls. Despite several funding plans introduced in the General Assembly, none passed.

Because no legislative solution was forthcoming, Gov. Rendell took action to save transit on February 28, 2005. He used his influence to spend $412 million in Federal Transportation Flex Funding on transit for two years through December 2006 in order to close transit agencies' projected revenue shortfalls. These funds already were approved for highway funding but Federal guidelines allowed states also to spend the money on transit. The Governor pointed out that an automated increase in the Oil Company Franchise Tax due to rising gasoline and diesel fuel prices would bring in at least $276 million for highways and an unexpected increase in federal funds brought in $254 million, making a total of $530 million in additional money for highways.

On February 28, 2005, Gov. Rendell signed Executive Order 2005-1, creating the Transportation Funding and Reform Commission to study and make recommendations on how to reform the transportation system and to make recommendations on any additional funding that may be required.

On November 13, 2006, the Governor's Transportation Funding and Reform Commission issued its final recommendations. It recommended streamlining and simplifying the current structure used to fund transit and also to link the funding to need and performance. It also recommended greater accountability and made specific recommendations for business practice improvements.

Additionally, the Commission recommended an additional $576 million in state funds to finance transit plus an additional $184 million in local match, which together, would provide an additional $760 million for transit. In order to help local government raise revenues to meet its match, the Commission recommended that the General Assembly enact legislation enabling local governments to enact any one of the following taxes:

- up to 0.25% sales tax,
- up to 0.2% earned income tax, or
- up to 0.5% realty transfer tax.

For revenue sources from the state portion of the enhanced financing, the Commission looked at several options, including the personal income tax, the sales tax, and the realty transfer tax. Because the Commission determined that revenues from the realty transfer tax "more closely align with public transportation ridership in the Commonwealth," it recommended that the realty transfer tax rate be raised by 0.9%, bringing the state portion of the tax to 1.9%.

In February of 2007 as part the Executive Budget submission, Governor Rendell presented four funding options to the General Assembly to raise an additional $760 million for transit as follows: (1) increase Realty Transfer Tax by 0.9% plus 25% local contribution, (2) increase Realty Transfer Tax by 0.5% plus $100 million in PennDOT fees plus new sales tax plus 25% local contribution, (3) increase Realty Transfer Tax by 0.5% plus introduce interstate tolls plus PennDOT fees, and (4) create a new Oil Company Gross Profits Tax.

The General Assembly ultimately opted for a plan enacted in Act 44 of 2007, completely revised funding to transit, including payments from the Pennsylvania Turnpike Commission from increased toll fares and tolling Interstate 80.

Act 44 was a major restructuring of funding for transit. It dedicated 4.4% of the Sales and Use Tax and Turnpike Payments to a new Public Transportation Trust Fund. It moved operating assistance for transit "off-budget" so it no longer competed against other programs. It provided capital and asset improvement funding. It included reforms in the funding formula to the transit agencies. It provided dedicated funding for programs of statewide significance, which are shared rides for persons with disabilities, intercity rail and bus, community transportation, welfare to work funding to match federal funds, technical assistance and demonstration projects, rail safety inspections, and program oversight.

The new funding proposal combined needs-based and performance-based criteria in order to incentivize transit agencies to improve operations.

For the first three years, Act 44 provides that the Turnpike Commission would make the following payments for transit: $300 million for FY 2007/08, $350 million for FY 2008/09, and $400 million for FY 2009/10. The plan to toll Interstate 80, however, requires approval of the Federal Government, and if disapproved, then the Commission would be unable to sustain continued payments at the same level. Thus Act 44 provided for two contingencies: (1) If the Turnpike is successful in tolling Interstate 80, then the Turnpike payments would grow by 2.5% per year starting with $410 million in FY 2010/11; (2) If not, then the payment drops to $250 million for FY 2010/11 and each year thereafter.

On September 11, 2008, Associate Administrator for Infrastructure King W. Gee of the Federal Highway Administration (FHWA), U.S. Department of Transportation, sent a memo notifying the Commission and the Pennsylvania Department of Transportation that "FHWA has concluded that the agency is unable to move the application under the ISRRPP [Interstate System Reconstruction and Rehabilitation Pilot Program] at this time." The challenge for the future is to find a funding source to replace the loss of funds from this decision. On October 30, 2009, Pennsylvania resubmitted its application after making various changes in hopes of addressing the concerns of the federal government. On April 6, 2010, the FHWA issued a final decision denying Pennsylvania from tolling Interstate 80.

The consequences of the Federal denial to Pennsylvania are significant. For 2010/2011, for example, the Public Transportation Trust Fund lost $160 million.

On February 17, 2009, President Barack Obama signed the American Recovery and Reinvestment Act (ARRA) into law, providing $343.7 million for transit agencies in Pennsylvania: $263.4 million for capital assistance grants and $80.3 million for fixed guideway rail modernization projects. ARRA, however, was a one-time expenditure, and transit agencies need sustained support for capital projects.

In May 2010, the Pennsylvania State Transportation Advisory Committee issued a report updating the recommendations from Gov. Rendell's Transportation Funding and Reform Commission. The Committee identified $484 million in unmet need, a dramatic increase over the $1.3 billion in FY 2009/10 funding.

On April 28, 2010, Governor Rendell called the General Assembly into special session on transportation funding, but that session ended without any bills signed into law by the Governor.

In April 2011, Governor Corbett appointed a 40-member Transportation Funding Advisory Commission (TFAC) to "develop a comprehensive, strategic proposal for addressing the transportation funding needs of Pennsylvania." In August 2011, the TFAC provided a report to the governor with recommendations to raise $2.5 billion in new annual transportation revenue over a five-year period.

Among its major recommendations, the TFAC called for restructuring Act 44 to direct all or part of the $450 million annual payment to transit. Among the other recommendations:

- Increasing fees that can be directed to transit;
- Dedicating 2% of existing sales tax revenues to transit; and
- Increasing the local transit match.

The full report is available online at www.tfac.pa.gov.

Public Private Partnerships

On July 5, 2012, Governor Corbett signed Act 88 of 2012 authorizing Public Private Partnerships (P3s) for transportation projects in the commonwealth. This law allows PennDOT and other transportation authorities and commissions to partner with private companies to participate in delivering, maintaining and financing transportation-related projects. This law also created a seven-member Public Private Transportation Partnership Board to examine and approve potential public private transportation projects.

On January 10, 2013, the P3 Board approved the first project. This project will solicit private sector proposals to manage and operate PennDOT's 511

Year	Governor	Milestone
1963	Scranton	Port Authority of Allegheny County assumes responsibility for public transit from private companies. Operations begin in March 1964.
1964		Federal Urban Mass Transportation Act of 1964 becomes law.
1964		The General Assembly creates SEPTA by statute.
1968	Shafer	Pennsylvania General Assembly establishes a policy to finance and develop public transportation with the Pennsylvania Transportation Assistance Authority Act of 1967 and the Pennsylvania Urban Mass Transportation Law of 1967.
1968		SEPTA begins operations in Philadelphia.
1969		SEPTA begins operations in suburbs of Philadelphia
1972	Shapp	The one-year-old Lottery Fund Act is amended to provide free transit for senior citizens during non-peak hours and weekends
1980	Thornburgh	General Assembly creates the Shared Ride program for senior citizens, attempts to constrain growth of transit by capping expenses and requiring minimum revenues, and the Transportation Assistance Authority Act is repealed.
1987	Casey	General Assembly discontinues attempted regulation of transit expenses and revenues and establishes a funding allocation formula.
1991		General Assembly creates the Public Transportation Assistance Fund.
1997	Ridge	General Assembly creates the Supplemental Public Transportation Assistance Funding program, and the Governor pledges additional bond-financed capital projects.
2003	Rendell	H.B. 200 becomes law (Act 46) to remove the utility realty tax portion of Pennsylvania Transportation Assistance Fund and replace it with a sales tax revenue transfer of 0.417% to create greater consistency and predictability.
2005	Rendell	The Governor uses his authority to “flex” $412 million in federal funds for transit, and the Governor creates the Transportation Funding and Reform Commission.
2007		H.B. 1590 becomes law (Act 44) dedicating sales and use tax revenue and Pennsylvania Turnpike payments in a new Public Transportation Trust Fund.
2010		The Federal Highway Administration denies Pennsylvania’s application to toll Interstate 80, causing an initial loss of capital funding for Transit of $160 million in FY 2010/11.
2011	Corbett	HB 3 becomes law (Act 66) which allows PennDOT and other transportation authorities and commissions to partner with private companies to participate in delivering, maintaining and financing transportation-related projects