Legislative Fiscal Bureau
One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

April 30, 2009 Joint Committee on Finance Paper #770

Regional Transit Authorities -- Other Provisions
(DOT -- Local Transportation Assistance)

[LFB 2009-11 Budget Summary: Page 607, #2]

CURRENT LAW

The 2007-09 biennial budget provided $800,000 from the transportation fund under the Joint Finance Committee's segregated fund supplemental appropriation to continue planning efforts for the proposed Kenosha-Racine-Milwaukee (KRM) commuter rail project. In June, 2008, the Committee released $100,000 to the Department of Transportation's passenger railroad station improvement and commuter rail transit system grants biennial appropriation for the purpose of making a grant for continued planning of the KRM project.

The statutes create a Southeastern Wisconsin Regional Transit Authority comprised of the geographic area of Kenosha, Milwaukee, and Racine counties. The primary responsibility of the authority was to prepare a report for submission to the Legislature regarding the future of the authority and the long-term planning and funding of public transportation in the region. The report was submitted on November 15, 2008, as required.

The authority can impose a vehicle rental fee of up to $2 per rental transaction in the three-county region. Revenues from the $2 vehicle rental fee, which has been imposed since July 1, 2006, must be used to hire staff, conduct studies, and expend funds essential to the preparation of the report to the Legislature and may not be used for lobbying.

GOVERNOR

Kenosha-Racine-Milwaukee (KRM) Commuter Rail Project. Require that no later than one year after the creation of a Southeast Regional Transit Authority, as allowed under the bill, the authority would have to submit an application to the Federal Transit Administration (FTA) to enter the preliminary engineering phase of the federal new starts grant program for the KRM commuter rail link.

Vehicle Rental Fee Authority Under the Existing RTA. Provide that if a Southeast RTA is created, the RTA could impose a $2 per transaction vehicle rental fee, within its jurisdictional area. Specify that the fee would be effective on the first day of the first month that begins at least 90 days after the board of directors of the Southeast RTA approves the imposition of the fee and notifies the Department of Revenue (DOR). The existing appropriation for the distribution of the $2 vehicle rental fee proceeds and the references to the imposition of the fee by the Southeastern Wisconsin RTA would be modified to refer instead to the Southeast RTA. The current law restrictions placed on the expenditure of revenues from the $2 vehicle rental fee would not apply to the Southeast RTA.

DISCUSSION POINTS

Kenosha-Racine-Milwaukee Commuter Rail Project.

1. The bill would allow a regional transit authority (RTA) to be created in southeastern Wisconsin, if the governing bodies of Milwaukee or Kenosha counties, or of a municipality east of Interstate 94 in Racine County, adopt a resolution to create the RTA. This Southeast RTA would replace the existing Southeastern Wisconsin RTA, which would be terminated on the first day of the third month beginning after the budget's general effective date.

2. Under the bill, within one year after the Southeast RTA is created, the RTA would have to submit an application to the FTA to enter the preliminary engineering phase of the federal new starts grant program for the KRM commuter rail link. However, a separate, nonstatutory provision in the bill would require this application to be made no later than one year after the budget act's general effective date. On March 19, 2009, the administration submitted an errata to the Committee that indicated that it was the Governor's intent for the grant application to be required within one year of the creation of the Southeast RTA. Therefore, the nonstatutory requirement could be deleted (Alternative A1).

Vehicle Rental Fee

3. The existing RTA in southeastern Wisconsin can impose a vehicle rental fee of up to $2 per rental transaction in the three-county region. Revenues from the $2 vehicle rental fee must be used to hire staff, conduct studies, and expend funds essential to the preparation of a required report to the Legislature and may not be used for lobbying.

4. The RTA board voted to impose the vehicle rental fee, effective July 1, 2006. DOR administers the rental fee and retains 2.55% of the fee revenues to cover its administrative costs associated with collecting the fee. However, at the end of each fiscal year, any unencumbered balance in DOR's administrative appropriation account that exceeds 10% of the expenditures from the appropriation during the fiscal year is also distributed to the RTA. In 2008, DOR distributed

$893,500 to the RTA associated with the vehicle rental fee. Total distributions of $2.2 million have been made since the fee was originated. Although the revenues cannot be expended under current law, DOR is still collecting the vehicle rental fee and has distributed $183,200 in fee revenues to the RTA through March, 2009. Through February, 2009, the existing RTA had a balance of $1,354,749 associated with the vehicle rental fee. Unless the current RTA board repeals the fee, the fee will continue to be collected until the calendar quarter after the current RTA ceases to exist. Current law specifies that the RTA shall retain these revenues until the Legislature takes action on the authority's report. The bill does not specify what would happen to these revenues. The Committee could amend the bill to provide that these revenues would be transferred to the new Southeast RTA if it is created (Alternative B2).

5. Currently, the state currently imposes a 5.0% vehicle rental fee statewide and the exposition center district in Milwaukee County (the Wisconsin Center District) imposes a 3.0% vehicle rental fee in municipalities wholly or partly located in Milwaukee County. In addition, all car rentals are subject to state and local sales taxes, which total 5.5% in Kenosha County, 5.6% in Milwaukee County, and 5.1% in Racine County. As a result, on a three-day, $50 per day car rental, the renter of the vehicle would pay total taxes and fees on the rental equal to the amounts indicated in the following table, for rentals in each county within the existing RTA. Given the per transaction nature of the RTA fee, the percentages shown in the table would all be higher for shorter rental periods (2.7% more for a one-day rental) and lower for longer rental periods (0.8% less for a one-week rental).

	Kenosha	Milwaukee	Racine
RTA Vehicle Rental Fee ($2)	$2.00	$2.00	$2.00
State Vehicle Rental Fee (5%)	7.50	7.50	7.50
Exposition Center Vehicle Rental Fee (3%)	0.00	4.50	0.00
State Sales Tax (5%)	7.50	7.50	7.50
County Sales Tax (0.5%)	0.75	0.75	0.00
Baseball Park District Sales Tax (0.1%)	0.00	0.15	0.15
Total Taxes and Fees	$17.75	$22.40	$17.15
Taxes and Fees as Percentage of Rental	11.8%	14.9%	11.4%

6. Along with the deletion of the existing RTA, the bill would delete the statutory restrictions on the use of the rental car fee revenues. As a result, the Southeast RTA would have the authority to use the rental car fee revenues to carry out any of its powers and functions, including lobbying activities.

7. Under the bill, three regional transit authorities in the state could have sales tax authority and spending authority relative to transit service: a Dane County RTA, a Fox Cities RTA, and a Southeast RTA. However, only the Southeast RTA would have the authority to impose a $2 per transaction rental car fee. The Committee could extend the rental car fee to the other RTAs

allowed under the bill, which would allow each RTA the same dedicated revenue sources for transit (Alternative B3). DOR staff indicate that the Department does not currently track the amount of state vehicle fee revenue collected in each municipality or county in the state. As a result, it is not known how much revenue could be collected from a $2 per transaction fee in each RTA jurisdiction.

8. It is estimated that a 0.5% sales and use tax in the proposed Southeast RTA region would have generated $81.3 million in revenues in 2008, if the initial RTA jurisdiction included Kenosha and Milwaukee counties and the City of Racine. Comparatively, the existing $2 per transaction vehicle rental fee generated nearly $900,000 in that year. Given that the Southeast RTA sales tax, if imposed, would generate a substantial amount of revenue for the RTA compared to the existing vehicle rental fee, the existing rental fee may not be necessary for the RTA to meet it obligations. In addition, as indicated earlier, vehicle rentals are also subject to the state and local sales taxes. Therefore, the value of a vehicle rental transaction would already be subject to any RTA sales and use tax rate that would be imposed (at 0.5%, this would equal $0.25 per day on a $50 per day rental).

9. Alternately, the $2 vehicle rental fee would be a revenue source that could be used to cover the administrative costs of the Southeast RTA. This would allow more of the RTA sales and use tax revenues to be used by the RTA to provide transit service in the region.

Use of RTA Sales Tax Revenues for Non-Transit Purposes

10. In the past, when the state has looked at allowing local authorities the option of imposing a sales tax to fund regional transportation efforts, including transit, allowing those sales tax revenues to be used to fund regional highway projects was also included in the proposal. Under 1991 Act 39, a regional transportation authority in southeastern Wisconsin was created, which included the geographic region of Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha counties. Similar to the existing Southeastern Wisconsin RTA, the regional transportation authority was created for the purpose of completing a report to the Governor and Legislature. The report was to identify a permanent regional funding source to provide local funds for improvements to highways that have a regional impact and to fund the local operating and capital costs of public transit in the region.

11. Act 39 specified that the regional transportation authority must consider the following revenue sources: a local gasoline tax; a local motor vehicle fuel sales tax; a vehicle registration fee; and a local sales tax. The Regional Transportation Authority recommended a 0.4% sales tax and an additional four cents per gallon motor vehicle fuel tax in the region. The report specified that 80% of the revenue generated in each county be returned to that county to fund both highway and transit projects. The remaining funds could be used to fund similar regional efforts. Prior to submission of the report to the Governor and Legislature, a copy of the report was submitted to each county in the region. With the exception of Milwaukee County, the counties of the region failed to adopt resolutions in support of the report.

12. Some local officials, who support the creation of RTAs in the state, have also indicated that revenues from the proposed 0.5% sales tax imposed by the RTAs should be allowed to be used to fund highway improvements in the RTA regions. Other states allow local transportation authorities to use sales tax revenues to fund local or regional transportation-related expenses, including both transit and highway projects. For example, the State of California imposes a 0.25% sales and use tax and returns the revenues from that tax to regional transportation authorities to be used for transportation-related purposes in each region. Some of these regional transportation authorities use the revenue to fund transit and some use the revenue to fund both transit and highways.

13. If the Committee decides to allow the use of the RTA sales tax revenues for highway purposes, the title of the authorities could be modified to "Regional Transportation Authority" to reflect the broader purpose. Initially, the allocation of revenues to highway projects could be done by passing these revenues down to county or municipal governments, rather than having the RTA take any further role in administering highway projects (Alternative C1).

14. Some proponents of RTAs in Wisconsin contend that the sales tax authority provided RTAs under the bill would provide a dedicated revenue source for transit, which is needed to ensure some stability in local transit funding. A dedicated revenue source for transit would be unlike the current system, where local transit agencies often have to annually compete with other local priorities for a consistent share of local property tax revenues in order to maintain existing transit service levels.

15. Allowing up to a 0.5% sales tax within the RTA jurisdiction would likely generate revenues that would be sufficient to meet most existing transit needs, as well as providing funding for the reinstatement of lost service and transit expansions. In some areas, the full 0.5% rate may not have to be imposed in order to meet the region's transit needs. However, given local highway infrastructure requirements, it may be unlikely that a 0.5% sales tax would be sufficient to meet the demand for those funds from both local transit agencies and highway departments. Therefore, it may be more likely that RTAs would set the tax rate at the 0.5% maximum.

ALTERNATIVES

A. Kenosha-Racine-Milwaukee Commuter Rail Project

1. Delete the nonstatutory provision in the bill that would require the Southeast RTA to submit an application to the Federal Transit Administration to enter the preliminary engineering phase of the federal new starts grant program for the KRM commuter rail link no later than one year after the budget act's general effective date. (This would clarify the Governor's intent, which was indicated in a DOA errata, that the application be submitted no later than one year after the creation of the Southeast RTA).

B. Vehicle Rental Fee

1. Approve the Governor's recommendation to provide that if a Southeast RTA is created, the RTA could impose a $2 per transaction vehicle rental fee, within its jurisdictional area. Specify that the fee would be effective on the first day of the first month that begins at least 90 days after the board of directors of the Southeast RTA approves the imposition of the fee and notifies the Department of Revenue. Modify the existing appropriation for the distribution of the $2 vehicle rental fee proceeds and the references to the imposition of the fee by the Southeastern Wisconsin RTA to refer instead to the Southeast RTA. Delete the current law restrictions placed on the expenditure of revenues from the $2 vehicle rental.

2. Specify that any vehicle rental fee revenues retained by the current Southeastern Wisconsin Regional Transit Authority would be transferred to the Southeast RTA allowed under the bill on the first day of the month following such an RTA's creation.

3. Extend the $2 per transaction vehicle rental fee authority to the other regional transit authorities created under the bill.

4. Delete the Governor's recommendation.

C. Use of Sales Tax Revenues for Highway Purposes

1. Specify that revenues from the 0.5% sales and use taxes imposed by a regional transit authority could be used for highway purposes. Specify that the title for the regional transit authorities allowed under the bill would be modified to be "regional transportation authority". Allow the RTA board to determine the allocation of funds between transit and highway purposes and to further determine how to allocate the highway funds to the counties and municipalities within the RTA.

2. Take no action.

Prepared by: Al Runde