



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

W. Sheppard Miller, III
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Agenda item # 6

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

October 18, 2023

MOTION

Made By: Ms. Hynes **Seconded By:** Mr. Kasprowicz

Action: Motion Carried, Unanimously

Title: Washington Metropolitan Area Transit Authority (WMATA) Annual Reporting – Fiscal Year 2023

WHEREAS, Virginia Code Section 33.2-1526.1 allocates 46.5 percent of the Commonwealth Mass Transit Fund to the Northern Virginia Transportation Commission (“NVTC”) for distribution to the Washington Metropolitan Area Transit Authority (“WMATA”) for capital purposes and operating assistance (“Commonwealth Mass Transit Fund WMATA Allocation”), as determined by NVTC; and

WHEREAS, the Virginia Code Section 33.2-1526.1 requires the CTB to withhold funding available to WMATA under the following conditions:

1. Va. Code Sec. 33.2-1526.1(K) requires that in any year that the total Virginia operating assistance in the approved WMATA budget increases by more than three percent from the total operating assistance in the prior year's approved WMATA budget, the CTB shall withhold an amount equal to 35 percent of the funds available. The following items shall not be included in the calculation of any WMATA budget increase: (i) any service, equipment, or facility that is required by any applicable law, rule, or regulation; (ii) any capital project approved by the WMATA Board before or after July 1, 2018; and (iii) any payments or obligations of any kind arising from or related to legal disputes or proceedings between or among WMATA and any other person or entity.
2. Va. Code Sec. 33.2-1526.1(L) requires the CTB to withhold 20 percent of the funds available if (i) any alternate directors participate or take action at an official WMATA Board meeting or committee meeting as Board directors for a WMATA compact member

when both directors appointed by that same WMATA Compact member are present at the WMATA Board meeting or committee meeting or (ii) the WMATA Board of Directors has not adopted bylaws that would prohibit such participation by alternate directors.

3. Va. Code Sec. 33.2-1526.1(M) requires that, beginning July 1, 2019, the CTB shall withhold 20 percent of the funds available each year unless (i) WMATA has adopted a detailed capital improvement program covering the current fiscal year and, at a minimum, the next five fiscal years, and at least one public hearing on such capital improvement program has been held in a locality embraced by the NVTC; and (ii) WMATA has adopted or updated a strategic plan within the preceding 36 months, and at least one public hearing on such plan or updated plan has been held in a locality embraced by the NVTC. The first strategic plan adopted to comply with such requirements shall include a plan to align services with demand and to satisfy the other recommendations included in the report submitted pursuant to Item 436 R of Chapter 836 of the Acts of Assembly of 2017; and

WHEREAS, the CTB approved policy and guidelines to implement the enactment clauses by resolution of the Board on September 18, 2018, which were updated on January 19, 2021, and July 19, 2023, which require that DRPT analyze information received from WMATA and make a recommendation on enforcement actions, if any, to be taken; and

WHEREAS, DRPT has completed a review of WMATA’s compliance with such requirements, in consultation with the Office of the Attorney General, and has presented their findings and recommendations to the Board; and

NOW THEREFORE, BE IT RESOLVED that the Board hereby adopts the following findings relative to WMATA’s compliance for Fiscal Year 2023:

Three Percent Cap on Growth in Total Virginia Operating Assistance (Va. Code Sec. 33.2-1526.1(K))

1. WMATA has met the requirements of the statute and Board policy for FY2023.
2. No enforcement action to be taken for FY2023.

Participation by Alternate Directors of the WMATA Board (Va. Code Sec. 33.2-1526.1(L))

1. WMATA has met the requirements of the statute and Board policy for FY2023.
2. No enforcement action to be taken for FY2023.

Adoption of a Detailed Capital Improvement Program (Va. Code Sec. 33.2-1526.1(M))

1. WMATA has met the requirements for compliance with the statute and CTB policy.

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2. No enforcement action to be taken for FY2023.

Adoption or Update of a Strategic Plan (Va. Code Sec. 33.2-1526.1(M))

1. WMATA has met the requirements for compliance with the statute and CTB policy.
2. No enforcement action to be taken for FY2023.

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CTB Decision Brief

Washington Metropolitan Area Transit Authority (WMATA) Annual Reporting – Fiscal Year 2023

Issue: In accordance with the CTB Policy and Guidelines for Implementation of Governance and Funding Reforms for the Washington Metropolitan Area Transit Authority (WMATA) that was approved by the CTB on September 18, 2018, and updated January 19, 2021, and July 19, 2023, WMATA must provide notifications to DRPT by July 1 of each year regarding its compliance with four specific legislative and CTB policy requirements. DRPT is required to analyze the information received from WMATA and present to the CTB, in September of each year (beginning in 2019), a recommendation on enforcement actions, if any, that are required to be taken by the CTB policy. A resolution approving DRPT’s recommendations as presented is required.

Facts: WMATA provided the required notifications for FY 2023 actions to DRPT in two separate letters dated June 23 and June 30, 2023. DRPT staff reviewed and analyzed the information received from WMATA, and DRPT Director Jennifer DeBruhl presented DRPT’s findings and recommendations to the CTB at its workshop on September 20, 2023. The four specific legislative and CTB Policy requirements that WMATA must document compliance with include the annual adoption of a detailed Capital Improvement Program (CIP), the adoption or update of a Strategic Plan at least every 36 months, a three percent cap on growth in total Virginia operating assistance from the previous fiscal year, and restrictions on the participation by Alternate Directors to the WMATA Board. WMATA must also certify that it held public hearings on the CIP and Strategic Plan prior to adoption. DRPT found that WMATA met the standards for compliance with all four legislative and CTB Policy requirements in FY 2023.

Recommendation: Based on its analysis of the required information received from WMATA, DRPT recommends that the CTB take no enforcement actions against WMATA related to its FY 2023 compliance with the CTB Policy and legislative requirements. WMATA will be required to demonstrate compliance with the additional CTB Policy and legislative requirements that were approved by the CTB on September 20, 2023 when it submits its compliance documentation for FY2024 by June 30, 2024.

Action Required by CTB: Approval of the attached resolution certifying that the CTB will take no enforcement actions against WMATA related to its FY 2023 compliance with the CTB Policy and legislative requirements.

Options: Approve, Deny or Defer.