

Union Calendar No. 83

110TH CONGRESS
1ST SESSION

H. R. 401

[Report No. 110-141]

To amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for maintaining and improving the transit system of the Washington Metropolitan Area Transit Authority, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 11, 2007

Mr. TOM DAVIS of Virginia (for himself, Mr. HOYER, Mr. WOLF, Ms. NORTON, Mr. VAN HOLLEN, Mr. MORAN of Virginia, Mr. WYNN, and Mr. SARBANES) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

MAY 9, 2007

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on January 11, 2007]

A BILL

To amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for maintaining and improving the transit system of the Washington Metropolitan Area Transit Authority, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; FINDINGS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “Na-*
5 *tional Capital Transportation Amendments Act of 2007”.*

6 (b) *FINDINGS.*—*Congress finds as follows:*

7 (1) *Metro, the public transit system of the Wash-*
8 *ington metropolitan area, is essential for the contin-*
9 *ued and effective performance of the functions of the*
10 *Federal Government, and for the orderly movement of*
11 *people during major events and times of regional or*
12 *national emergency.*

13 (2) *On 3 occasions, Congress has authorized ap-*
14 *propriations for the construction and capital im-*
15 *provement needs of the Metrorail system.*

16 (3) *Additional funding is required to protect*
17 *these previous Federal investments and ensure the*
18 *continued functionality and viability of the original*
19 *103-mile Metrorail system.*

20 **SEC. 2. FEDERAL CONTRIBUTION FOR CAPITAL PROJECTS**

21 **FOR WASHINGTON METROPOLITAN AREA**
22 **TRANSIT SYSTEM.**

23 *The National Capital Transportation Act of 1969 (sec.*
24 *9–1111.01 et seq., D.C. Official Code) is amended by adding*
25 *at the end the following new section:*

1 *“AUTHORIZATION OF ADDITIONAL FEDERAL CONTRIBUTION*
2 *FOR CAPITAL AND PREVENTIVE MAINTENANCE PROJECTS*

3 *“SEC. 18. (a) AUTHORIZATION.—Subject to the suc-*
4 *ceeding provisions of this section, the Secretary of Trans-*
5 *portation is authorized to make grants to the Transit Au-*
6 *thority, in addition to the contributions authorized under*
7 *sections 3, 14, and 17, for the purpose of financing in part*
8 *the capital and preventive maintenance projects included*
9 *in the Capital Improvement Program approved by the*
10 *Board of Directors of the Transit Authority.*

11 *“(b) USE OF FUNDS.—The Federal grants made pur-*
12 *suant to the authorization under this section shall be subject*
13 *to the following limitations and conditions:*

14 *“(1) The work for which such Federal grants are*
15 *authorized shall be subject to the provisions of the*
16 *Compact (consistent with the amendments to the*
17 *Compact described in subsection (d)).*

18 *“(2) Each such Federal grant shall be for 50 per-*
19 *cent of the net project cost of the project involved, and*
20 *shall be provided in cash from sources other than Fed-*
21 *eral funds or revenues from the operation of public*
22 *mass transportation systems. Consistent with the*
23 *terms of the amendment to the Compact described in*
24 *subsection (d)(1), any funds so provided shall be sole-*
25 *ly from undistributed cash surpluses, replacement or*

1 *depreciation funds or reserves available in cash, or*
2 *new capital.*

3 “(3) *Such Federal grants may be used only for*
4 *the maintenance and upkeep of the systems of the*
5 *Transit Authority as of the date of the enactment of*
6 *the National Capital Transportation Amendments*
7 *Act of 2007 and may not be used to increase the mile-*
8 *age of the rail system.*

9 “(c) *APPLICABILITY OF REQUIREMENTS FOR MASS*
10 *TRANSPORTATION CAPITAL PROJECTS RECEIVING FUNDS*
11 *UNDER FEDERAL TRANSPORTATION LAW.—Except as spe-*
12 *cifically provided in this section, the use of any amounts*
13 *appropriated pursuant to the authorization under this sec-*
14 *tion shall be subject to the requirements applicable to cap-*
15 *ital projects for which funds are provided under chapter*
16 *53 of title 49, United States Code, except to the extent that*
17 *the Secretary of Transportation determines that the require-*
18 *ments are inconsistent with the purposes of this section.*

19 “(d) *AMENDMENTS TO COMPACT.—No amounts may*
20 *be provided to the Transit Authority pursuant to the au-*
21 *thorization under this section until the Transit Authority*
22 *notifies the Secretary of Transportation that each of the fol-*
23 *lowing amendments to the Compact (and any further*
24 *amendments which may be required to implement such*
25 *amendments) have taken effect:*

1 “(1)(A) *An amendment requiring that all pay-*
2 *ments by the local signatory governments for the*
3 *Transit Authority for the purpose of matching any*
4 *Federal funds appropriated in any given year au-*
5 *thorized under subsection (a) for the cost of operating*
6 *and maintaining the adopted regional system are*
7 *made from amounts derived from dedicated funding*
8 *sources.*

9 “(B) *For purposes of this paragraph, the term*
10 *‘dedicated funding source’ means any source of fund-*
11 *ing which is earmarked or required under State or*
12 *local law to be used to match Federal appropriations*
13 *authorized under this Act for payments to the Transit*
14 *Authority.*

15 “(2) *An amendment establishing the Office of the*
16 *Inspector General of the Transit Authority in accord-*
17 *ance with section 3 of the National Capital Transpor-*
18 *tation Amendments Act of 2007.*

19 “(3) *An amendment expanding the Board of Di-*
20 *rectors of the Transit Authority to include 4 addi-*
21 *tional Directors appointed by the Administrator of*
22 *General Services, of whom 2 shall be nonvoting and*
23 *2 shall be voting, and requiring one of the voting*
24 *members so appointed to be a regular passenger and*

1 *customer of the bus or rail service of the Transit Au-*
2 *thority.*

3 “(e) *ACCESS TO WIRELESS SERVICES IN METRORAIL*
4 *SYSTEM.—*

5 “(1) *REQUIRING TRANSIT AUTHORITY TO PRO-*
6 *VIDE ACCESS TO SERVICE.—No amounts may be pro-*
7 *vided to the Transit Authority pursuant to the au-*
8 *thorization under this section unless the Transit Au-*
9 *thority ensures that customers of the rail service of the*
10 *Transit Authority have access within the rail system*
11 *to services provided by any licensed wireless provider*
12 *that notifies the Transit Authority (in accordance*
13 *with such procedures as the Transit Authority may*
14 *adopt) of its intent to offer service to the public, in*
15 *accordance with the following timetable:*

16 “(A) *Not later than 1 year after the date of*
17 *the enactment of the National Capital Transpor-*
18 *tation Amendments Act of 2007, in the 20 un-*
19 *derground rail station platforms with the highest*
20 *volume of passenger traffic.*

21 “(B) *Not later than 4 years after such date,*
22 *throughout the rail system.*

23 “(2) *ACCESS OF WIRELESS PROVIDERS TO SYS-*
24 *TEM FOR UPGRADES AND MAINTENANCE.—No*
25 *amounts may be provided to the Transit Authority*

1 *pursuant to the authorization under this section un-*
2 *less the Transit Authority ensures that each licensed*
3 *wireless provider who provides service to the public*
4 *within the rail system pursuant to paragraph (1) has*
5 *access to the system on an ongoing basis (subject to*
6 *such restrictions as the Transit Authority may im-*
7 *pose to ensure that such access will not unduly im-*
8 *part rail operations or threaten the safety of cus-*
9 *tomers or employees of the rail system) to carry out*
10 *emergency repairs, routine maintenance, and up-*
11 *grades to the service.*

12 “(3) *PERMITTING REASONABLE AND CUSTOMARY*
13 *CHARGES.—Nothing in this subsection may be con-*
14 *strued to prohibit the Transit Authority from requir-*
15 *ing a licensed wireless provider to pay reasonable and*
16 *customary charges for access granted under this sub-*
17 *section.*

18 “(4) *REPORTS.—Not later than 1 year after the*
19 *date of the enactment of the National Capital Trans-*
20 *portation Amendments Act of 2007, and each of the*
21 *3 years thereafter, the Transit Authority shall submit*
22 *to the Committee on Oversight and Government Re-*
23 *form of the House of Representatives and the Com-*
24 *mittee on Homeland Security and Governmental Af-*

1 *fairs of the Senate a report on the implementation of*
2 *this subsection.*

3 “(5) *DEFINITION.*—*In this subsection, the term*
4 *‘licensed wireless provider’ means any provider of*
5 *wireless services who is operating pursuant to a Fed-*
6 *eral license to offer such services to the public for*
7 *profit.*

8 “(f) *CAP ON OVERTIME PAY.*—

9 “(1) *IN GENERAL.*—*No amounts may be pro-*
10 *vided to the Transit Authority pursuant to the au-*
11 *thorization under this section unless the Transit Au-*
12 *thority certifies to the Secretary of Transportation*
13 *that the amount of overtime compensation paid to*
14 *any employee of the Transit Authority with respect to*
15 *any pay period does not exceed $\frac{1}{3}$ of the employee’s*
16 *rate of basic pay for such period.*

17 “(2) *EFFECTIVE DATE.*—*Paragraph (1) shall*
18 *apply with respect to pay periods beginning on or*
19 *after the date of the enactment of the National Cap-*
20 *ital Transportation Amendments Act of 2007.*

21 “(g) *EXCLUSION OF OVERTIME PAY IN CALCULATION*
22 *OF ANNUAL SALARY USED FOR DETERMINING AMOUNT OF*
23 *RETIREMENT ANNUITY.*—

24 “(1) *IN GENERAL.*—*To the extent consistent with*
25 *collective bargaining agreements, no amounts may be*

1 *provided to the Transit Authority pursuant to the au-*
2 *thorization under this section unless the Transit Au-*
3 *thority certifies to the Secretary of Transportation*
4 *that, in determining the amount of any annuity paid*
5 *to an individual who is separated from employment*
6 *with the Transit Authority which is based in whole*
7 *or in part on the compensation paid to the individual*
8 *during any year, there shall be excluded from the de-*
9 *termination of the compensation paid to the indi-*
10 *vidual during the year any amounts paid as overtime*
11 *compensation.*

12 “(2) *EFFECTIVE DATE.*—*Paragraph (1) shall*
13 *apply with respect to compensation paid to an indi-*
14 *vidual during years beginning after the date of the*
15 *enactment of the National Capital Transportation*
16 *Amendments Act of 2007.*

17 “(h) *AMOUNT.*—*There are authorized to be appro-*
18 *priated to the Secretary of Transportation for grants under*
19 *this section an aggregate amount not to exceed*
20 *\$1,500,000,000 to be available in increments over 10 fiscal*
21 *years beginning in fiscal year 2009, or until expended.*

22 “(i) *AVAILABILITY.*—*Amounts appropriated pursuant*
23 *to the authorization under this section shall remain avail-*
24 *able until expended.”.*

1 **SEC. 3. WASHINGTON METROPOLITAN AREA TRANSIT AU-**
2 **THORITY INSPECTOR GENERAL.**

3 (a) *ESTABLISHMENT OF OFFICE.*—

4 (1) *IN GENERAL.*—*The Washington Metropolitan*
5 *Area Transit Authority (hereafter referred to as the*
6 *“Transit Authority”)* shall establish in the Transit
7 *Authority the Office of the Inspector General (here-*
8 *after in this section referred to as the “Office”), head-*
9 *ed by the Inspector General of the Transit Authority*
10 *(hereafter in this section referred to as the “Inspector*
11 *General”).*

12 (2) *DEFINITION.*—*In paragraph (1), the “Wash-*
13 *ington Metropolitan Area Transit Authority” means*
14 *the Authority established under Article III of the*
15 *Washington Metropolitan Area Transit Authority*
16 *Compact (Public Law 89–774).*

17 (b) *INSPECTOR GENERAL.*—

18 (1) *APPOINTMENT.*—*The Inspector General shall*
19 *be appointed by the vote of a majority of the Board*
20 *of Directors of the Transit Authority, and shall be ap-*
21 *pointed without regard to political affiliation and*
22 *solely on the basis of integrity and demonstrated abil-*
23 *ity in accounting, auditing, financial analysis, law,*
24 *management analysis, public administration, or in-*
25 *vestigations, as well as familiarity or experience with*
26 *the operation of transit systems.*

1 (2) *TERM OF SERVICE.*—*The Inspector General*
2 *shall serve for a term of 5 years, and an individual*
3 *serving as Inspector General may be reappointed for*
4 *not more than 2 additional terms.*

5 (3) *REMOVAL.*—*The Inspector General may be*
6 *removed from office prior to the expiration of his term*
7 *only by the unanimous vote of all of the members of*
8 *the Board of Directors of the Transit Authority, and*
9 *the Board shall communicate the reasons for any such*
10 *removal to the Governor of Maryland, the Governor of*
11 *Virginia, the Mayor of the District of Columbia, the*
12 *chair of the Committee on Government Reform of the*
13 *House of Representatives, and the chair of the Com-*
14 *mittee on Homeland Security and Governmental Af-*
15 *airs of the Senate.*

16 (c) *DUTIES.*—

17 (1) *APPLICABILITY OF DUTIES OF INSPECTOR*
18 *GENERAL OF EXECUTIVE BRANCH ESTABLISHMENT.*—
19 *The Inspector General shall carry out the same duties*
20 *and responsibilities with respect to the Transit Au-*
21 *thority as an Inspector General of an establishment*
22 *carries out with respect to an establishment under*
23 *section 4 of the Inspector General Act of 1978 (5*
24 *U.S.C. App. 4), under the same terms and conditions*
25 *which apply under such section.*

1 (2) *CONDUCTING ANNUAL AUDIT OF FINANCIAL*
2 *STATEMENTS.*—*The Inspector General shall be respon-*
3 *sible for conducting the annual audit of the financial*
4 *accounts of the Transit Authority, either directly or*
5 *by contract with an independent external auditor se-*
6 *lected by the Inspector General.*

7 (3) *REPORTS.*—

8 (A) *SEMIANNUAL REPORTS TO TRANSIT AU-*
9 *THORITY.*—*The Inspector General shall prepare*
10 *and submit semiannual reports summarizing the*
11 *activities of the Office in the same manner, and*
12 *in accordance with the same deadlines, terms,*
13 *and conditions, as an Inspector General of an es-*
14 *tablishment under section 5 of the Inspector Gen-*
15 *eral Act of 1978 (5 U.S.C. App. 5). For purposes*
16 *of applying section 5 of such Act to the Inspector*
17 *General, the Board of Directors of the Transit*
18 *Authority shall be considered the head of the es-*
19 *tablishment, except that the Inspector General*
20 *shall transmit to the General Manager of the*
21 *Transit Authority a copy of any report sub-*
22 *mitted to the Board pursuant to this paragraph.*

23 (B) *ANNUAL REPORTS TO LOCAL SIGNATORY*
24 *GOVERNMENTS AND CONGRESS.*—*Not later than*
25 *January 15 of each year, the Inspector General*

1 shall prepare and submit a report summarizing
2 the activities of the Office during the previous
3 year, and shall submit such reports to the Gov-
4 ernor of Maryland, the Governor of Virginia, the
5 Mayor of the District of Columbia, the chair of
6 the Committee on Government Reform of the
7 House of Representatives, and the chair of the
8 Committee on Homeland Security and Govern-
9 mental Affairs of the Senate.

10 (4) INVESTIGATIONS OF COMPLAINTS OF EMPLOY-
11 EES AND MEMBERS.—

12 (A) AUTHORITY.—The Inspector General
13 may receive and investigate complaints or infor-
14 mation from an employee or member of the
15 Transit Authority concerning the possible exist-
16 ence of an activity constituting a violation of
17 law, rules, or regulations, or mismanagement,
18 gross waste of funds, abuse of authority, or a
19 substantial and specific danger to the public
20 health and safety.

21 (B) NONDISCLOSURE.—The Inspector Gen-
22 eral shall not, after receipt of a complaint or in-
23 formation from an employee or member, disclose
24 the identity of the employee or member without
25 the consent of the employee or member, unless the

1 *Inspector General determines such disclosure is*
2 *unavoidable during the course of the investiga-*
3 *tion.*

4 (C) *PROHIBITING RETALIATION.—An em-*
5 *ployee or member of the Transit Authority who*
6 *has authority to take, direct others to take, rec-*
7 *ommend, or approve any personnel action, shall*
8 *not, with respect to such authority, take or*
9 *threaten to take any action against any em-*
10 *ployee or member as a reprisal for making a*
11 *complaint or disclosing information to the In-*
12 *spector General, unless the complaint was made*
13 *or the information disclosed with the knowledge*
14 *that it was false or with willful disregard for its*
15 *truth or falsity.*

16 (5) *INDEPENDENCE IN CARRYING OUT DUTIES.—*
17 *Neither the Board of Directors of the Transit Author-*
18 *ity, the General Manager of the Transit Authority,*
19 *nor any other member or employee of the Transit Au-*
20 *thority may prevent or prohibit the Inspector General*
21 *from carrying out any of the duties or responsibilities*
22 *assigned to the Inspector General under this section.*

23 (d) *POWERS.—*

24 (1) *IN GENERAL.—The Inspector General may*
25 *exercise the same authorities with respect to the Tran-*

1 *sit Authority as an Inspector General of an establish-*
2 *ment may exercise with respect to an establishment*
3 *under section 6(a) of the Inspector General Act of*
4 *1978 (5 U.S.C. App. 6(a)), other than paragraphs*
5 *(7), (8), and (9) of such section.*

6 (2) *STAFF.—*

7 (A) *ASSISTANT INSPECTOR GENERALS AND*
8 *OTHER STAFF.—The Inspector General shall ap-*
9 *point and fix the pay of—*

10 (i) *an Assistant Inspector General for*
11 *Audits, who shall be responsible for coordi-*
12 *nating the activities of the Inspector Gen-*
13 *eral relating to audits;*

14 (ii) *an Assistant Inspector General for*
15 *Investigations, who shall be responsible for*
16 *coordinating the activities of the Inspector*
17 *General relating to investigations; and*

18 (iii) *such other personnel as the In-*
19 *spector General considers appropriate.*

20 (B) *INDEPENDENCE IN APPOINTING*
21 *STAFF.—No individual may carry out any of the*
22 *duties or responsibilities of the Office unless the*
23 *individual is appointed by the Inspector Gen-*
24 *eral, or provides services procured by the Inspec-*
25 *tor General, pursuant to this paragraph. Noth-*

1 *ing in this subparagraph may be construed to*
2 *prohibit the Inspector General from entering into*
3 *a contract or other arrangement for the provision*
4 *of services under this section.*

5 (C) *APPLICABILITY OF TRANSIT SYSTEM*
6 *PERSONNEL RULES.—None of the regulations*
7 *governing the appointment and pay of employees*
8 *of the Transit System shall apply with respect to*
9 *the appointment and compensation of the per-*
10 *sonnel of the Office, except to the extent agreed*
11 *to by the Inspector General. Nothing in the pre-*
12 *vious sentence may be construed to affect sub-*
13 *paragraphs (A) through (B).*

14 (3) *EQUIPMENT AND SUPPLIES.—The General*
15 *Manager of the Transit Authority shall provide the*
16 *Office with appropriate and adequate office space, to-*
17 *gether with such equipment, supplies, and commu-*
18 *nications facilities and services as may be necessary*
19 *for the operation of the Office, and shall provide nec-*
20 *essary maintenance services for such office space and*
21 *the equipment and facilities located therein.*

22 (e) *TRANSFER OF FUNCTIONS.—To the extent that any*
23 *office or entity in the Transit Authority prior to the ap-*
24 *pointment of the first Inspector General under this section*
25 *carried out any of the duties and responsibilities assigned*

1 *to the Inspector General under this section, the functions*
2 *of such office or entity shall be transferred to the Office upon*
3 *the appointment of the first Inspector General under this*
4 *section.*

5 **SEC. 4. STUDY AND REPORT BY COMPTROLLER GENERAL.**

6 *(a) STUDY.—The Comptroller General shall conduct a*
7 *study on the use of the funds provided under section 18*
8 *of the National Capital Transportation Act of 1969 (as*
9 *added by this Act).*

10 *(b) REPORT.—Not later than 3 years after the date*
11 *of the enactment of this Act, the Comptroller General shall*
12 *submit a report to the Committee on Government Reform*
13 *of the House of Representatives and the Committee on*
14 *Homeland Security and Governmental Affairs of the Senate*
15 *on the study conducted under subsection (a).*

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