Capital Metropolitan Transportation Authority

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Summary

Created in 1985, the Capital Metropolitan Transportation Authority (Capital Metro) provides public transportation services for the Austin area and some outlying communities. These services include bus services, paratransit services for persons with disabilities, and commuter rail from Austin to Leander. Capital Metro does not receive state appropriations, and funds its operations primarily through sales tax revenues and federal transportation funds. An eight-member Board, three of whom are locally elected officials, oversees Capital Metro. Capital Metro is subject to review, but not abolishment, under the Sunset Act.

Senate Bill 650 makes needed changes in law to ensure that Capital Metro follows through in more responsibly managing its finances and reserves, lowering its excessive labor costs, and prioritizing needed maintenance of its outdated railroad bridges. The Legislature adopted the majority of the Sunset Commission's recommendations, removing only a few provisions already implemented by Capital Metro. The Legislature also added a new provision to address how to maintain services for certain people with disabilities in areas that withdrew from Capital Metro's service area. A discussion of the bill's major provisions follows.

Sunset Provisions

1. Require the Board to revamp Capital Metro's reserves and budgeting practices to ensure its finances are responsibly managed.

Senate Bill 650 requires the Board to maintain a reserve equal to at least two months of actual operating expenses, or about $27.5 million. The Legislature modified this provision to allow the Board five years to establish the reserve amount, but requiring Capital Metro to report to the Legislature in three years on its progress in meeting the reserve. The bill allows the Board to spend from reserves only to address unanticipated circumstances, and requires the Board to adjust reserve amounts at least once a year. The Legislature expanded on this provision by requiring the Board to post on its website the balances, deposits, expenditures, and interest income for all its financial accounts, as well as for its reserve account.

The bill requires Capital Metro to develop a new strategic plan that establishes its mission and goals, and sets policy and service priorities to drive budget development and allocation of resources. The bill also requires Capital Metro to develop a system for tracking the progress of its capital projects, and prohibits Capital Metro from spending more on these projects than provided for in the budget.

Senate Bill 650 requires the Board to develop a five-year capital improvement plan, with public comment, that links to Capital Metro's strategic goals. The capital plan must address various elements including project prioritization and proposed financing. The Legislature added that the capital plan must include policies on cost-benefit analysis of projects and participation of Historically Underutilized Businesses.

2. Require Capital Metro to competitively bid all transit services not directly provided by its own employees.

Senate Bill 650 requires Capital Metro to use a competitive bidding process to contract out for any transit services not provided directly by Capital Metro employees, including bus and paratransit services, no later than September 1, 2012. This provision will effectively dissolve Capital Metro's relationship with StarTran, its in-house non-competitively bid service provider. This change should significantly reduce costs to Capital Metro, as StarTran's costs far exceed similar services provided by peer transit systems and those already competitively bid by Capital Metro. Any contracts for transit services must include performance and cost control measures, incentives for performance, penalties for non-compliance, and contract end dates. The Legislature also added a provision authorizing Capital Metro to issue bonds to help spread out the costs of pension liabilities resulting from implementing this requirement.

3. Enhance the ongoing safety of Capital Metro's commuter rail system.

The bill requires Capital Metro to adopt a comprehensive rail safety plan that covers all rail activities, including commuter and freight. The safety plan must emphasize the safety of Capital Metro's railroad bridges, and include specifics such as hazard analyses, risk assessments, and safety audits. The Legislature modified this provision by requiring Capital Metro to provide the Texas Department of Transportation any rail safety-related reports that Capital Metro also provides to federal transportation agencies.

4. Require Capital Metro to develop a policy to more effectively engage stakeholders and to help rebuild the public's trust.

Senate Bill 650 requires Capital Metro to develop a public involvement policy that ensures full opportunity for the public to help shape decisions on Capital Metro's plans and transportation projects. The policy must provide for public comment on issues in advance of Board decisions, an approach for obtaining input throughout the year, and information on how the public can be involved. The bill requires that Capital Metro post the public involvement policy on its website.

Provision Added by the Legislature

5. Require Capital Metro to provide services to certain persons with disabilities living in communities that withdrew from its service area.

The bill requires Capital Metro to provide limited transportation services to persons with disabilities that were disabled and lived in outlying communities at the time these communities withdrew from Capital Metro's service area. These communities will pay the costs associated with providing the transportation services. This bill provision expires on January 1, 2020.

Fiscal Implication Summary

Senate Bill 650 will not have fiscal implications for the State, because Capital Metro does not receive state appropriations. If Capital Metro opts to contract out for transit services, this is expected to result in significant savings, as summarized in the chart below. The chart does not show a savings in 2012 because Capital Metro will need time to transition to contracting for services. The next three years show the costs to Capital Metro for paying out StarTran pension liabilities and vacation or sick leave for StarTran employees, before realizing greater savings in 2016. These estimates may vary depending on how the Board approaches the contract, particularly if the Board opts to maintain some level of current salaries and benefits during the transition.

Fiscal Year	Savings to Capital Metro	Costs to Capital Metro	Net Savings to Capital Metro
2012	$0	$0	$0
2013	$22,200,000	$10,400,000	$11,800,000
2014	$22,200,000	$6,000,000	$16,200,000
2015	$22,200,000	$6,000,000	$16,200,000
2016	$22,200,000	$0	$22,200,000

XII. Agency Comments
StarTran/Capital Metro Organizational Structure

Capital Metro's labor structure poses many challenges to the long-term success of the agency.

State law prohibits political subdivisions of the state from engaging in collective bargaining with their employees, though some exceptions are provided for police officers and firefighters. However, federal law requires that Capital Metro recognize, and not diminish, the collective bargaining rights of the unionized workforce as a condition for receiving federal funds.

Due to this conflict between state and federal labor laws, in 1991 Capital Metro chose to create a separate nonprofit entity to secure labor services for the bulk of the agency's transit operations. While this arrangement has sufficed for the purposes of complying with both sets of labor law, issues have existed since inception that have had both negative financial and political impacts on Capital Metro.

Background
When Capital Metro was created in 1985 and assumed responsibility for public transportation, the agency continued the labor services contract that the City of Austin had maintained with a private management company. Capital Metro also began to contract with other private companies in order to secure additional transit services and gain efficiencies. In 1991, however, Capital Metro changed the labor structure. Concern had arisen that the existing contractual relationship could jeopardize the collective bargaining status of the unionized employees. Therefore, the agency ended the contract with the private management company and created an independent, non-profit organization (StarTran, Inc.) to operate the services not provided by the other private contractors.

Today, Capital Metro contracts for fixed route and paratransit services with:

- StarTran, which serves as Capital Metro's single largest service provider with approximately 750 bus and paratransit operators and 125 mechanics who were responsible for approximately two-thirds of Capital Metro's fixed-route bus service over the course of FY 2009;
- Veolia, a private independent contractor that provides approximately 20 percent of Capital Metro's fixed route bus service (primarily service operated with smaller vehicles in the northeastern portion of the service area), and which also serves as the agency's operational contractor for the MetroRail Red Line;
- First Transit, another private independent contractor that provides approximately 14 percent of Capital Metro's fixed route bus service by operating the entire University of Texas shuttle system and other routes;
- Capital Area Rural Transportation System (CARTS), which provides some fixed route and demand response service in suburban portions of Capital Metro's service area; and
- Local taxi cab companies and other providers that provide paratransit overflow services.

The Amalgamated Transit Union Local 1091 (ATU) represents the bargaining unit employees for all three main service providers: StarTran, Veolia and First Transit.

Discussion
While the CAMPO peer review conducted of the agency last year did not find any internal impediments to a positive labor-management relationship in the StarTran-ATU labor agreement, the arrangement itself has resulted in an ongoing labor conflict that has had significant negative impacts to Capital Metro in terms of costs and employee relations.

Since it is markedly more expensive than the Veolia-ATU and FirstTransit-ATU agreements, the StarTran-ATU labor agreement is of great financial consequence to Capital Metro. Services operated by StarTran cost Capital Metro approximately 23 percent more per hour than services operated by Veolia or First Transit. This is primarily because of the richer benefits and higher wages offered at StarTran. As reported in the CAMPO Peer Review, the cost to Capital Metro for StarTran's healthcare benefits is higher than that of any other public entity's in the area, and wages for StarTran bargaining employee are the highest in the state even after adjusted for the region's higher costs of living. If costs cannot be controlled, the agreement will become even more financially unsustainable for Capital Metro.

Operationally, the complicated labor structure has created confusion and a high degree of tension and mistrust between ATU, StarTran, and Capital Metro. As reported in the CAMPO Peer Review, "ATU expresses confusion, whether real or manufactured, over who should make decisions regarding its issues." For example, the union objected to the effort made in 2007 to convert StarTran bargaining employees into Capital Metro employees, but they simultaneously and regularly call upon the Capital Metro board to intervene in contract and personnel issues. Additionally, in the last two rounds of contract negotiations it appeared that the union was not willing to accept that StarTran had to adhere to its adopted budget, though they did not appear to take this position when it negotiated with Capital Metro's other contractors on those labor agreements. These examples appear to demonstrate that the union does not accept StarTran as the decision-maker in the collective bargaining and labor relations processes. Admittedly, the Capital Metro-StarTran structure is complex. Thus, a general lack of understanding exists amongst members of the public and sometimes even within the Capital Metro organization. Unfortunately, this has contributed to some of the tensions that exist today.

The community has also been tangibly impacted by the antagonistic labor relations environment. The last two rounds of contract negotiations were quite contentious and resulted in a union strike in 2005 and 2008. In 2005, the union stopped work for one day and in 2008, the strike lasted three days. Given that just over a quarter of Capital Metro's riders state that they do not have access to a motorized vehicle, the impact of the strikes was significant. Riders complained that the strikes were affecting and sometimes even preventing their ability to travel to and from work, school, or medical appointments. Due to the extensive curtailment of service, stories of two-hour trips were not unusual.

The CAMPO Peer Review provided recommendations on how the agency could better control its labor costs and improve labor relations. The consultants suggested two main options:

- Consolidate employees by converting all of the contracted operations employees into direct public employees of the agency.
- Contract all operational services on a cost-per-unit basis.

While there are benefits and drawbacks to each approach, the most significant difference between the two is the fiscal impact of each option.

Consolidating the employees of all three of Capital Metro's fixed route providers—StarTran, Veolia, and First Transit—into one group of direct public employees of the agency would give Capital Metro the quality control it sought in 1991. It would also streamline and simplify the labor structure and create more direct lines of communication among and between all levels of employees. Capital Metro would employ a "meet and confer" model for labor negotiations in order to retain the existing collective bargaining rights.

The biggest disadvantage of bringing all three contractors' employees in-house is the potentially substantial cost increases that would exacerbate the agency's already-serious financial concerns about labor costs. It is likely that Veolia and First Transit employees would bargain for the higher wages and more generous benefits provided to StarTran employees. Additionally, it is possible that Capital Metro could incur increased pension liabilities.

In 2007, actually, the Capital Metro board passed a resolution to "unify the workforce." In fact, since 1985, the labor contract with ATU has included a clause that provides a process to resolve any disputes should union employees become public employees. However, the 2007 proposal was abandoned because the union's request for mutually binding interest arbitration, in exchange for giving up their right to strike, could not be satisfied under state law.

The other option recommended in the Peer Review was to contract for all operational services on a cost-per-unit basis, which is the structure utilized in the current Veolia, First Transit, and CARTS contracts. Treating all contractors in the same way, as "unit-cost-of-service" providers, could substantially reduce costs for Capital Metro by requiring StarTran to provide services at the more competitive rates charged by Veolia and First Transit. Furthermore, it could reduce the current complexity and tension surrounding the StarTran relationship by clarifying who the actual employer is. Additionally, under this approach, employees would be able to retain their traditional collective bargaining rights. However, the union would likely vigorously oppose the measure since the need for StarTran to provide more competitive rates could result in lower wages and benefits for StarTran employees.

The political climate surrounding labor relations at Capital Metro is contentious and effectively limits the agency's ability to make much-needed changes. For example, when the agency has attempted to shift work from StarTran to lower cost providers, it has been publicly criticized of "union busting." Yet, without change, Capital Metro is unlikely to be able to provide the expanded transportation choices the region both needs and has requested. While either model would be difficult to implement, the consolidation option could be financially impossible and/or unsustainable, and given that it has already been rejected by the union, the cost-per-unit basis model seems like the most viable option.

Capital Metro Funding Structure and Financial Sustainability

Background

Like transit agencies throughout the country, Capital Metro is facing a critical challenge: there are not enough funds to meet the growing demand for public transportation. Central Texans have said that they want increased and expanded transit service, yet Capital Metro has limited resources and limited ability to address these demands, particularly in the near-term.

Over the past few decades, sales tax revenue had generated sufficient funding to provide the level of transit services expected by the overall public and to build up the reserves necessary for major transit projects. However, the more recent list of expectations and demands of Capital Metro is long, wide-ranging, and continues to grow. The community expects Capital Metro to be the transportation provider for those who have no other transportation options; a multi-modal, regional transportation provider; a congestion mitigator; and partner in improving air quality. Additionally, Capital Metro feels public and political pressure to not raise fares, not reduce service, and not outsource work to lower-cost providers, but also to provide funds to other entities and provide "premium" paratransit services that exceed federal standards. It is becoming more challenging for Capital Metro to deliver on all of these needs. Simply put, the state's current sales tax-based system of transit funding does not generate enough revenue to support the projected transportation needs in Central Texas.

Sales Tax Limitations & Volatility

Over 75 percent of the agency's total revenue is derived from sales tax. While an economic upturn boosts sales tax receipts, sales tax can also drop quickly and unexpectedly during economic declines. Since

Capital Metro approves two contractors for bus service

By Amy Denney | Apr 24, 2012 at 12:00 AM

Capital Metro bus PHOTO COURTESY CAPITAL METRO

The Capital Metro board approved two contracts with two different Texas-based companies to run bus service for part of its fixed-route and paratransit services in a deal that transit agency leaders say would save an estimated $35.5 million over the next seven years.

The first contract is a three-year, $408.7 million deal with Fort Worth–based McDonald Transit Associates and includes an option for four one-year extensions to run bus service.

The second contract goes to MV Transportation, which relocated its headquarters from California to Dallas, for MetroAccess services currently provided by StarTran. It is a $111.5 million deal for three years with an option for three one-year extensions.

The contractors will replace StarTran, a subsidiary of Capital Metro. They will start providing service Aug. 19 and are meeting with StarTran employees this week to introduce themselves and answer questions.

“I’m pleased with the outcome. We’ve done right by employees, we’re complying with the law, and over the long haul, we’re improving our financial bottom line,” said Linda Watson, Capital Metro president and CEO, in a news release. “Further, I’m confident in the expertise and abilities of the two contractors to provide a great service to our customers. It will be seamless to the community.”

Dottie Watkins, who oversees operations, said McDonald Transit’s local management team made the company stand out above the others.

“Through our interviews with McDonald and through their written proposals, they regularly stress the importance of good communication with employees as a foundation for good services,” she said during the April 20 board work session to discuss the recommended contractors. “Given what we are up against, we were impressed with their presentation.”

Hiring the new contractors will satisfy Senate Bill 650, signed into law in June 2011, which requires Capital Metro to either bring all of its employees in-house or outsource employment to a third-party contractor. About 70 percent of Capital Metro’s bus service employees work under StarTran, created by Capital Metro 1991 to manage its union workers. The other 30 percent are managed by third-party contractors First Transit and Veolia.

The bill was a result of the organization's review by the Texas Sunset Advisory Committee, which studies government agencies and identifies waste and inefficiencies.

Both McDonald Transit and MV Transportation will be required to offer existing StarTran employees a job with the same wages and benefits they earn now. The contractors will also have to offer a comparable pension plan and negotiation of wages, benefits and the pension with the union.

Jay Wyatt, president of the Amalgamated Transit Union Local 1091, said StarTran employees will fight to earn the same pension coverage as they have now and have had since the 1950s.

According to board documents, McDonald Transit has other contracts with union workers in Indiana, Massachusetts, Alabama and Colorado. MV Transportation employs several ex-union officials on its labor team.

The contracts also include various penalties and incentives based on performance measures, such as the number of complaints per 1,000 passengers and number of accidents per 100,000 miles.

The board's vote to select new contractors is another step forward in a nearly three-year process to make Capital Metro more efficient and financially stable as well as restructuring the organization of its labor force. The transit agency has a timeline of events posted on its website.