

HOUSE BILL REPORT

HJM 4008

As Reported by House Committee On:
Transportation

Brief Description: Requesting increased funding and legislative actions to advance transportation services to those with special transportation needs.

Sponsors: Representatives Wallace, Simpson, Clibborn, Morris, Lias, Darneille, Moeller, Santos and Wood.

Brief History:

Committee Activity:

Transportation: 2/12/09, 2/16/09, 2/19/09 [DPS].

Brief Summary of Substitute Bill

- Requests additional federal support of and legislative action related to programs and services provided for persons with special transportation needs.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 26 members: Representatives Clibborn, Chair; Lias, Vice Chair; Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Campbell, Cox, Driscoll, Eddy, Ericksen, Finn, Flannigan, Herrera, Johnson, Klippert, Kristiansen, Moeller, Morris, Rolfes, Sells, Shea, Simpson, Springer, Takko, Wallace, Williams and Wood.

Staff: Kathryn Leathers (786-7114)

Background:

Special Needs Transportation, Generally.

In 2007 the Legislature directed the Joint Transportation Committee to conduct a study of special needs transportation in the state. A particular goal of the study was to explore opportunities to enhance coordination of special needs transportation programs to ensure they are delivered efficiently, and that they result in improved access and increased mobility options for their clients. That study, finalized in January 2009, resulted in a number of recommendations, including the need to support and encourage federal legislative action to

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

permit a more coordinated and efficient use of special needs transportation funds and programs.

"Persons with special transportation needs" means those persons, including their personal attendants, who, because of physical or mental disability, income status, or age, are unable to transport themselves or to purchase transportation.

The 2000 U.S. Census estimates that there are approximately 6.4 million people living in Washington. While the federal Census data does not provide estimates of residents who are defined as persons with special transportation needs under state law, the data indicates that, of the 6.4 million residents, 12 percent are older adults (defined as age 65 or older) and 42 percent of those older adults have a disability. The combined population in King, Snohomish, Pierce and Kitsap counties is approximately 3.4 million. Of that population, approximately one-third to one-half fall within the special needs transportation population: seniors, 12 percent; children, 24 percent; low-income, 9 percent; and persons with disabilities, 22 percent.

Special needs transportation services are provided by many different providers, including public transportation agencies, state-funded human service programs, civic and community-based groups, and private for-profit and nonprofit entities. Generally speaking, the Americans with Disabilities Act (ADA) requires transit agencies to provide complementary paratransit services to individuals that cannot take the fixed-route bus due to a functional disability. However, many public transit agencies' boundaries are less than countywide. Paratransit service is a specialized, typically pre-scheduled transportation service provided by taxis, cars, and accessible vans or buses for persons with disabilities.

Under the ADA, paratransit service provided by a transit agency must meet certain service standards, including the following: (1) service must be provided on the same days and times that the fixed route operates; (2) service must be provided within three-quarters of a mile of existing transit routes; (3) a passenger may be required to pay twice the regular fare as on the fixed route service; (4) service must be provided "curb to curb", but the driver is not required to meet the passengers at the door of his or her residence; and (5) a transit operator may not turn down or deny trips, and any trip purpose is eligible.

Other paratransit, or "demand response," services are often provided in rural or other non-urbanized areas with limited or no public transit. Such services may be operated by a city, community-based nonprofit agency, or a senior center. Demand response services are not required to comply with the ADA paratransit service standards if comparable fixed-route services are not available.

Federal Special Needs Transportation Programs and Agencies, Generally.

In addition to state and local programs, there are approximately 62 federal programs in eight federal agencies that fund a variety of transportation services to persons who are transportation disadvantaged. Most of these programs have their own purposes and goals, target population, eligibility criteria, rules and regulations, administrative structure, funding process, billing rates, and accounting and reporting requirements. In addition, federal and state agencies maintain separate client databases, and, due to real or perceived federal confidentiality requirements, agencies are not typically willing to share client eligibility

information in order to determine the extent to which there might be overlap of services provided or efficiencies that could be achieved.

Medicaid and Transportation.

Medicaid is a federal entitlement program that funds basic health care services for the elderly, persons with low income, children, and individuals with disabilities. The federal government mandates that states provide non-emergency medical trips for Medicaid clients that have no other way to access medical facilities and services. In 2005 Washington spent more than \$5 billion for its Medicaid program. The Department of Social and Health Services (DSHS) is the largest provider of social service transportation in the state and provides a variety of services to approximately 2.1 million clients. Washington, like many other states, administers its own Medicaid program and establishes eligibility standards, payment rates, and benefit packages.

Since 1989 Washington has managed its Medicaid transportation through a brokerage system. Currently, services are operated statewide under contracts with eight brokers for the state's 13 transportation service regions. Transportation brokers typically provide the following primary services: (1) operation of a toll-free telephone service for scheduling interpreter services and non-emergency transportation to medical appointments; (2) evaluation and verification of client eligibility, provided service coverage, and appropriate level of transportation; and (3) contracting for, arranging, and monitoring transportation and interpreter services.

Federal Transportation Coordination Requirements.

In 2005 the federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was enacted, which conditions receipt of certain federally-funded public transportation grant projects on the establishment of locally-developed, coordinated public transportation plans. The SAFETEA-LU guidance issued by the Federal Transportation Administration (FTA) indicates that each plan should identify special transportation needs, prioritize services, and establish comprehensive strategies for meeting special transportation needs. The new federal requirement is addressed in the planning process of regional transportation planning organizations or metropolitan planning organizations.

Projects funded through three programs authorized by SAFETEA-LU are required to be derived from a locally developed, coordinated public transit-human services transportation plan. Those programs are: the Job Access and Reverse Commute Program (JARC, Section 5316, improving access to jobs for low-income individuals); the New Freedom Program (Section 5317, improving the mobility of persons with disabilities), and the Formula Program for Elderly Individuals and Individuals with Disabilities (Section 5310, capital assistance for programs that serve the elderly and disabled persons). However, the federal Rural Public Transportation Program funds (Section 5311, grants for capital, operating, and planning activities in rural areas) are not tied to a coordinated public transit-human services transportation plan.

Funding for Special Needs Transportation Services.

The largest funders of special needs transportation include public transit; community transportation providers; student transportation for homeless youth or for those students

requiring specialized education programs; and state-funded human service programs, most notably the Medicaid program within the DSHS.

The 2007-09 Transportation Budget appropriated \$25 million for special needs transportation, of which \$5.5 million was provided solely for grants to nonprofit providers and \$19.5 million was provided solely for grants to transit agencies. An additional \$16.9 million was appropriated to the Rural Mobility Grant Program, which supports transit systems serving small cities and rural areas and also providers of service in areas that are either not served or are underserved by transit agencies.

The Washington State Department of Transportation (WSDOT) administers several FTA grant programs. For the 2007-09 biennium, the WSDOT matched state and local funds with FTA funds and administered more than \$21.5 million in federal public transportation grants.

Funding and Program Eligibility and Cost-Sharing Restrictions.

The two largest funders of special needs transportation in our state, Medicaid and public transportation agencies, are each required by federal law to provide transportation services to Medicaid eligible persons and persons with disabilities, respectively. However, eligibility standards for these programs differ for persons entitled to receive the service as well as for the type of service they can receive. Typically, programs sponsoring special needs transportation programs are required to restrict the use of grant funds for a designated population. For example, FTA Section 5310 vehicles (serving the elderly and disabled) must be used primarily to deliver services for the elderly and disabled and are not intended for any other use. As a result, this prevents different programs from sharing resources and costs and from jointly funding a coordinated system of transportation services.

Student Transportation.

In Washington, over \$300 million per year is spent on transporting students to and from school. In general, school districts receive funding to transport students between home and school if the students live more than one mile from school. If a student is disabled, funding is provided without any restrictions on distance. Additional funding is provided if young students (kindergarten through fifth grade) live within a mile but do not have a safe route to school.

In addition, the federal McKinney-Vento Homeless Education Assistance Act (McKinney-Vento Act) provides that state educational agencies must ensure that each homeless child and youth has equal access to the same public education as other children; furthermore, a homeless student may not be separated from the mainstream school environment. The McKinney-Vento Act ensures that homeless children are transported to and from the child's choice of school, in any school district, regardless of the school district in which the child resides. Federal funding is not specifically provided to states or local school districts for purposes of complying with the McKinney-Vento Act.

Giving Incentives for Volunteers Everywhere Act (GIVE Act).

The federal GIVE Act of 2009, which was considered but not passed in 2008, provides support for volunteer special needs drivers. Under current law, volunteer drivers must treat as income any mileage reimbursements by a charity in excess of 14 cents per mile, and may deduct the mileage they drive on behalf of the charity at a rate of 14 cents per mile. The

GIVE Act proposes to raise the volunteer deduction rate to 70 percent of the standard business deduction rate and exempts from taxable income reimbursements for mileage traveled by a volunteer at the same exemption rate provided to businesses.

Summary of Substitute Bill:

Congress is requested to provide additional funding for, and to take legislative action on, special needs transportation issues, including: (1) encouraging greater coordination of transportation services among human service agencies, transportation agencies, and transportation providers by establishing comparable planning requirements for human service agencies as are established for the use of federal public transit funds; (2) providing funding to local school districts to support the transportation programs for homeless students required under the McKinney-Vento Act; (3) allowing for more flexibility in the use of transportation funding; and (4) supporting the federal GIVE Act, which provides assistance to volunteer drivers.

Substitute Bill Compared to Original Bill:

A technical correction is made to reflect the reauthorization of the federal GIVE Act as the GIVE Act of 2009, instead of 2008. A number of additional items requesting legislative action are added to the joint memorial, including the following: (1) establishing consistent transportation definitions, performance measurements, and reporting requirements; (2) directing federal transportation agencies to work in partnership to resolve barriers; (3) permitting a state to demonstrate on a pilot basis the potential for cost allocation models that combine and share funds and programs; and (4) issuing an executive order directing the U.S. Department of Health and Human Services to address inconsistent and unnecessary federal program rules and restrictions.

Appropriation: None.

Fiscal Note: Not requested.

Staff Summary of Public Testimony:

(In support) This joint memorial is one of three pieces of legislation that came out of a study conducted by the Joint Transportation Committee. There are many federal regulations that prevent coordination of services and funds, and we could get more services if we were able to coordinate and combine the various programs and funding supported by the federal government. While special needs transportation services could benefit from additional funding, we could provide additional services if we were permitted to coordinate these programs. This message to Congress is critical because we do not have the money we need at the state level.

(Opposed) None.

Persons Testifying: Representative Wallace, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.