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Is The State Violating the Law?

Amazingly, the Port Authority (PAT) continues to receive its state subsidy despite the absence of the legally required local matching funds. According to Section 1513.D of Act 44—the transportation funding bill of 2007—the state money shall not be released to a transit agency unless the local match is in place. Even if a community cannot come up with the full amount of the required 15 percent local match as specified in Act 44, then some of the local match must be forthcoming. But this is not the case in Allegheny County. The local funds are available. In fact, revenues from the new drink and car rental taxes are on pace to collect more than is necessary for the local match.

The problem arises because the Chief Executive issued an Executive Order that withholds the new dedicated transit tax revenues until the union agrees to major concessions. County matching funds were not distributed to PAT for the fiscal year just ended on June 30 and there is no real prospect the funds for the current fiscal year will be released as long as the Chief Executive sticks to the pledge contained in the Executive Order. Thus, it is reasonable to ask; why is the state continuing to send the funds and on whose authority when the action is in clear violation of Act 44?

The state allocation for the current budget year will be $184.5 million and accounts for more than 50 percent of the Authority's $350.3 million operating budget. Without this money PAT would be forced to cease operations. The threat of a shut down may have been what the County Executive was hoping for when he promised to withhold the County's local matching funds. It was undoubtedly the Executive's intent to force the transit union to make enormous concessions in a new agreement. However, with the state money continuing to flow and no shutdown imminent, the union is justifiably emboldened to reject concessions thereby undermining the leverage the Chief Executive had hoped to have. Presumably, the union will be willing to work indefinitely under the terms of the old contract because any new contract will almost certainly be much less favorable than the one that recently expired. Does PAT have the nerve to lock them out and shut down the system? Almost certainly not.

Compounding PAT's difficulty, even with state and federal funding in place, the agency will have another large deficit equal to the County's share (about $27 million) for the new fiscal year (2008-09) which will probably necessitate more service cuts and/or fare hikes to balance the budget. Or PAT can repeat the strategy from the last fiscal year and

borrow from its capital budget funds. Either way the union would be fine as long as they continue to operate under the terms of the expired contract. Any service cuts will affect primarily younger, less senior-tenured drivers while allowing the union to blame management and the Chief Executive for the reduced service.

Moreover, by withholding the County's match from PAT, the Chief Executive is drawing the ire of bar and restaurant owners who are being hurt by the new drink tax. The drink tax, whose proceeds were to be used as the County match, was permitted by Act 44 and implemented by the Chief Executive and County Council despite strong opposition from restaurant owners. Meanwhile, the tax collection continues, taking money out of the local economy and hurting businesses and the transit workers are apparently no closer to making huge concessions than they ever were.

As the stalemate between PAT and the union continues, thanks to the continued flow of the state funding, will PAT be able to continue to borrow from its capital budget to close its operating deficit? Where will the money come from to replace the capital budget money? At the very least the shifting of money from the capital budget will delay future projects from getting built and any delay will undoubtedly increase costs—putting PAT's capital budget in an even bigger hole. And, the practice of shifting money to the operations could possibly jeopardize future federal funding of capital projects.

Without the state's subsidy, the Port Authority would shut down. On the other hand if they continue to receive the state money and operate without the County's match, PAT's future will become bleaker and bleaker. One thing for certain is something must give—and soon. The County Executive and PAT have lost bargaining leverage that will stay lost as long as the state keeps on breaking its own law by continuing to provide PAT funding in the absence of a local match.

What a tangled web government officials have spun for themselves and the citizens of the county and state. Sadly, and as usual, it is the taxpayer and transit user who will end up paying to fix the mess.

In the very near future the General Assembly should act decisively. Take away PAT's monopoly control of transit allowing other regional and private service providers to come in to Allegheny County. Ban transit strikes. Anything short of these strong actions will be an expensive band aid that will have to be fixed with an even more expensive band aid later on.

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