

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. J. RES. 194

---

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 24 (legislative day, SEPTEMBER 20), 1996

Received

---

## JOINT RESOLUTION

Granting the consent of Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.

- 1 *Resolved by the Senate and House of Representatives*
- 2 *of the United States of America in Congress assembled,*

1 **SECTION 1. CONSENT OF CONGRESS TO AMENDMENTS TO**  
2 **COMPACT.**

3 The Congress consents to the amendments of the  
4 State of Maryland (chapter 252, 1995 Acts of the Mary-  
5 land General Assembly and chapter 489, 1996 Laws of  
6 Maryland), the amendments of the Commonwealth of Vir-  
7 ginia (chapter 150, 1995 Acts of Assembly of Virginia),  
8 and the amendments of the District of Columbia (D.C.  
9 Law 11–138) of title III of the Washington Metropolitan  
10 Area Transit Regulation Compact. Such amendments are  
11 substantially as follows:

12 (1) Section 3 is amended to read as follows:

13 “Washington Metropolitan Area Transit Zone

14 “3. There is hereby created the Washington Metro-  
15 politan Area Transit Zone which shall embrace the Dis-  
16 trict of Columbia, the cities of Alexandria, Falls Church  
17 and Fairfax and the counties of Arlington, Fairfax, and  
18 Loudoun and political subdivisions of the Commonwealth  
19 of Virginia located within those counties, and the counties  
20 of Montgomery and Prince George’s in the State of Mary-  
21 land and political subdivisions of the State of Maryland  
22 located in said counties.”.

23 (2) Subsection (a) of section 5 is amended to read  
24 as follows:

25 “(a) The Authority shall be governed by a Board of  
26 six Directors consisting of two Directors for each signa-

1 tory. For Virginia, the Directors shall be appointed by the  
2 Northern Virginia Transportation Commission; for the  
3 District of Columbia, by the Council of the District of Co-  
4 lumbia; and for Maryland, by the Washington Suburban  
5 Transit Commission. For Virginia and Maryland, the Di-  
6 rectors shall be appointed from among the members of the  
7 appointing body, except as otherwise provided herein, and  
8 shall serve for a term coincident with their term on the  
9 appointing body. A Director may be removed or suspended  
10 from office only as provided by the law of the signatory  
11 from which he was appointed. The appointing authorities  
12 shall also appoint an alternate for each Director, who may  
13 act only in the absence of the Director for whom he has  
14 been appointed an alternate, except that, in the case of  
15 the District of Columbia where only one Director and his  
16 alternate are present, such alternate may act on behalf  
17 of the absent Director. Each alternate shall serve at the  
18 pleasure of the appointing authority. In the event of a va-  
19 cancy in the Office of Director or alternate, it shall be  
20 filled in the same manner as an original appointment.”.

21 (3) Subsection (a) of section 8 is amended to read  
22 as follows:

23 “(a) Four Directors or alternates consisting of at  
24 least one Director or alternate appointed from each Signa-  
25 tory, shall constitute a quorum and no action by the Board

1 shall be effective unless a majority of the Board present  
2 and voting, which majority shall include at least one Direc-  
3 tor or alternate from each Signatory, concur therein; pro-  
4 vided, however, that a plan of financing may be adopted  
5 or a mass transit plan adopted, altered, revised or amend-  
6 ed by the unanimous vote of the Directors representing  
7 any two Signatories.”.

8 (4) Subsection (b) of section 14 is amended to read  
9 as follows:

10 “(b) It shall be the duty and responsibility of each  
11 member of the Board to serve as liaison between the  
12 Board and the body which appointed him to the Board.  
13 To provide a framework for regional participation in the  
14 planning process, the Board shall create technical commit-  
15 tees concerned with planning and collection and analyses  
16 of data relative to decision-making in the transportation  
17 planning process and the Mayor and Council of the Dis-  
18 trict of Columbia, the component governments of the  
19 Northern Virginia Transportation District and the Wash-  
20 ington Suburban Transit District shall appoint represent-  
21 atives to such technical committees and otherwise cooper-  
22 ate with the Board in the formulation of a mass transit  
23 plan, or in revisions, alterations or amendments thereof.”.

24 (5)(A) Paragraph (1) of subsection (a) of section 15  
25 is amended to read as follows:

1           “(1) The Mayor and Council of the District of  
2           Columbia, the Northern Virginia Transportation  
3           Commission and the Washington Suburban Transit  
4           Commission;”.

5           (B) Paragraph (3) of subsection (a) of section 15 is  
6           amended to read as follows:

7           “(3) the transportation agencies of the signato-  
8           ries;”.

9           (C) The last paragraph of section 15 is amended to  
10          read as follows:

11          “(b) A copy of the proposed mass transit plan,  
12          amendment or revision, shall be kept at the office of the  
13          Board and shall be available for public inspection. Infor-  
14          mation with respect thereto shall be released to the public.  
15          After thirty days’ notice published once a week for two  
16          successive weeks in one or more newspapers of general cir-  
17          culation within the zone, a public hearing shall be held  
18          with respect to the proposed plan, alteration, revision or  
19          amendment. The thirty days’ notice shall begin to run on  
20          the first day the notice appears in any such newspaper.  
21          The Board shall consider the evidence submitted and  
22          statements and comments made at such meeting and may  
23          make any changes in the proposed plan, amendment or  
24          revision which it deems appropriate and such changes may  
25          be made without further hearing.”.

1           (6) Subsection (a) of section 70 is amended to read  
2 as follows:

3           “(a) As soon as practical after the closing of the fiscal  
4 year, an audit shall be made of the financial accounts of  
5 the Authority. The audit shall be made by qualified cer-  
6 tified public accountants selected by the Board, who shall  
7 have no personal interest direct or indirect in the financial  
8 affairs of the Authority or any of its officers or employees.  
9 The report of audit shall be prepared in accordance with  
10 generally accepted auditing principles and shall be filed  
11 with the Chairman and other officers as the Board shall  
12 direct. Copies of the report shall be distributed to each  
13 Director, to the Congress, to the Mayor and Council of  
14 the District of Columbia, to the Governors of Virginia and  
15 Maryland, to the Washington Suburban Transit Commis-  
16 sion, to the Northern Virginia Transportation Commission  
17 and to the governing bodies of the political subdivisions  
18 located within the Zone which are parties to commitments  
19 for participation in the financing of the Authority and  
20 shall be made available for public distribution.”.

21           (7) Section 73 is amended to read as follows:

22                                 “Contracting and Purchasing

23           “73. (a)(1) Except as provided in subsections (b), (c),  
24 and (f) of this section, and except in the case of procure-  
25 ment procedures otherwise expressly authorized by stat-

1 ute, the Authority in conducting a procurement of prop-  
2 erty, services, or construction shall:

3 “(A) obtain full and open competition through  
4 the use of competitive procedures in accordance with  
5 the requirements of this Section; and

6 “(B) use the competitive procedure or combina-  
7 tion of competitive procedures that is best suited  
8 under the circumstances of the procurement.

9 “(2) In determining the competitive procedure appro-  
10 priate under the circumstances, the Authority shall:

11 “(A) solicit sealed bids if:

12 “(i) time permits the solicitation, submis-  
13 sion, and evaluation of sealed bids;

14 “(ii) the award will be made on the basis  
15 of price and other price-related factors;

16 “(iii) it is not necessary to conduct discus-  
17 sions with the responding sources about their  
18 bids; and

19 “(iv) there is a reasonable expectation of  
20 receiving more than one sealed bid; or

21 “(B) request competitive proposals if sealed  
22 bids are not appropriate under clause (A) of this  
23 paragraph.

24 “(b) The Authority may provide for the procurement  
25 of property, services, or construction covered by this Sec-

1 tion using competitive procedures but excluding a particu-  
2 lar source in order to establish or maintain an alternative  
3 source or sources of supply for that property, service, or  
4 construction if the Authority determines that excluding  
5 the source would increase or maintain competition and  
6 would likely result in reduced overall costs for procure-  
7 ment of property, services, or construction.

8 “(c) The Authority may use procedures other than  
9 competitive procedures if:

10 “(1) the property, services, or construction  
11 needed by the Authority is available from only one  
12 responsible source and no other type of property,  
13 services, or construction will satisfy the needs of the  
14 Authority; or

15 “(2) the Authority’s need for the property, serv-  
16 ices, or construction is of such an unusual and com-  
17 pelling urgency that the Authority would be seriously  
18 injured unless the Authority limits the number of  
19 sources from which it solicits bids or proposals; or

20 “(3) the Authority determines that it is nec-  
21 essary in the public interest to use procedures other  
22 than competitive procedures in the particular pro-  
23 curement; or

1           “(4) the property or services can be obtained  
2 through federal or other governmental sources at  
3 reasonable prices.

4           “(d) For the purpose of applying subsection (c)(1)  
5 of this section:

6           “(1) in the case of a contract for property, serv-  
7 ices, or construction to be awarded on the basis of  
8 acceptance of an unsolicited proposal, the property,  
9 services, or construction shall be deemed to be avail-  
10 able from only one responsible source if the source  
11 has submitted an unsolicited proposal that dem-  
12 onstrates a concept:

13           “(A) that is unique and innovative or, in  
14 the case of a service, for which the source dem-  
15 onstrates a unique capability to provide the  
16 service; and

17           “(B) the substance of which is not other-  
18 wise available to the Authority and does not re-  
19 semble the substance of a pending competitive  
20 procurement.

21           “(2) in the case of a follow-on contract for the  
22 continued development or production of a major sys-  
23 tem or highly specialized equipment or the continued  
24 provision of highly specialized services, the property,  
25 services, or construction may be deemed to be avail-

1       able from only the original source and may be pro-  
2       cured through procedures other than competitive  
3       procedures if it is likely that award to a source other  
4       than the original source would result in:

5               “(A) substantial duplication of cost to the  
6               Authority that is not expected to be recovered  
7               through competition; or

8               “(B) unacceptable delays in fulfilling the  
9               Authority’s needs.

10       “(e) If the Authority uses procedures other than com-  
11       petitive procedures to procure property, services, or con-  
12       struction under subsection (c)(2) of this section, the Au-  
13       thority shall request offers from as many potential sources  
14       as is practicable under the circumstances.

15       “(f)(1) To promote efficiency and economy in con-  
16       tracting, the Authority may use simplified acquisition pro-  
17       cedures for purchases of property, services and construc-  
18       tion.

19       “(2) For the purposes of this subsection, simplified  
20       acquisition procedures may be used for purchases for an  
21       amount that does not exceed the simplified acquisition  
22       threshold adopted by the Federal Government.

23       “(3) A proposed purchase or contract for an amount  
24       above the simplified acquisition threshold may not be di-  
25       vided into several purchases or contracts for lesser

1 amounts in order to use the procedures under paragraph  
2 (1) of this subsection.

3 “(4) In using simplified acquisition procedures, the  
4 Authority shall promote competition to the maximum ex-  
5 tent practicable.

6 “(g) The Board shall adopt policies and procedures  
7 to implement this Section. The policies and procedures  
8 shall provide for publication of notice of procurements and  
9 other actions designed to secure competition where com-  
10 petitive procedures are used.

11 “(h) The Authority in its discretion may reject any  
12 and all bids or proposals received in response to a solicita-  
13 tion.”.

14 (8) Section 81 is amended to read as follows:

15 “Jurisdiction of Courts

16 “81. The United States District Courts shall have  
17 original jurisdiction, concurrent with the Courts of Mary-  
18 land, Virginia and the District of Columbia, of all actions  
19 brought by or against the Authority and to enforce sub-  
20 poenas issued under this Title. Any such action initiated  
21 in a State or District of Columbia Court shall be remov-  
22 able to the appropriate United States District Court in  
23 the manner provided by Act of June 25, 1948, as amended  
24 (28 U.S.C. 1446).”.

25 (9) Section 84 is amended to read as follows:

1                   “Amendments and Supplements

2           “84. Amendments and supplements to this Title to  
3 implement the purposes thereof may be adopted by legisla-  
4 tive action of any of the signatory parties concurred in  
5 by all of the others. When one signatory adopts an amend-  
6 ment or supplement to an existing section of the Compact.  
7 that amendment shall not be immediately effective, and  
8 the previously enacted provision(s) shall remain in effect  
9 in each jurisdiction until the amendment or supplement  
10 is approved by the other signatories and is consented to  
11 by Congress.”.

          Passed the House of Representatives September 24,  
1996.

Attest:

ROBIN H. CARLE,

*Clerk.*