
Transportation Committee

HB 2072

Brief Description: Concerning transportation for persons with special transportation needs.

Sponsors: Representatives Wallace, Clibborn and Wood.

Brief Summary of Bill

- Makes statewide modifications to existing special needs transportation coordination efforts for the purpose of increasing coordination and maximizing efficiencies, and directs the Agency Council on Coordinated Transportation (ACCT) to provide statewide oversight.
- Modifies the ACCT's membership, and directs the ACCT to perform several additional new duties, including proposing statewide policies, and developing performance measures, common service definitions, and uniform performance and cost reporting systems.
- Designates the Washington State Department of Transportation (WSDOT) as the special needs transportation information clearinghouse for the state.
- Directs the Office of Superintendent of Public Instruction to track additional expenditures related to transporting homeless students.
- Requires the Department of Social and Health Services and WSDOT to jointly implement two pilot projects involving public transit special needs transportation services and Medicaid non-emergency medical trips, for the purpose of demonstrating and testing opportunities for cost-sharing and cost savings.

Hearing Date: 2/17/09

Staff: Kathryn Leathers (786-7114)

Background:

Special Needs Transportation, Generally.

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.

There are approximately 623 organizations and agencies in Washington that provide some level of service to persons with special transportation needs. "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 systems; state-funded human service programs, most notably the Department of Social and Health Services (DSHS); civic and community-based groups; and private for-profit and non-profit entities. Within the state, there are 28 public transportation systems, of which seven serve urbanized areas, eight serve small cities, and 13 serve rural areas.

Agency Council on Coordinated Transportation.

Established in 1998 and chaired by the Secretary of Transportation, or her designee, the Agency Council on Coordinated Transportation (ACCT) is a council of state agencies, transportation providers, consumer advocates, and legislators, which was created to facilitate a statewide approach to coordinated special needs transportation and to develop community-based coordinated transportation systems.

Since enactment, the ACCT has been reauthorized several times. In 2007 the Legislature reauthorized the ACCT until June 30, 2010, and modified and streamlined the ACCT's duties. To further its mission, the ACCT must: (1) adopt a biennial work plan that advocates for transportation system improvements and focuses on projects that identify and address barriers in laws, policies, and procedures; (2) convene work groups, as necessary, at the state, regional, or local level, to develop and implement coordinated approaches to special needs transportation; (3) review and recommend certification of local plans developed by regional transportation planning organizations based on meeting federal regulations; and (4) submit a progress report on its activities to the Legislature every two years.

In 2007 the Legislature also directed the Joint Transportation Committee to study legal and programmatic changes and best practices necessary for providing effective coordination of special needs transportation. That study, finalized in January 2009, resulted in a number of recommendations, including the need to strengthen the ACCT's role as a statewide oversight authority and to establish the necessary infrastructure that responds to local circumstances and needs.

Local Special Needs Coordinating Entities.

Currently, approximately 20 local coordination councils are active, to varying degrees, within the state. Many of these local councils were originally established with financial assistance provided

through the ACCT. A few local councils meet regularly and have full-time staff to advance local coordination initiatives, but most do not. Some local councils have adopted bylaws and developed strategic plans, while others are organized more informally. Generally speaking, many of these local councils are involved with local transportation planning efforts required under federal law. Funds are no longer available for the councils through the ACCT, and there is no official connection between the local councils and any state transportation program or agency.

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.

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.

With respect to seniors and persons with disabilities, the use of public transportation is supported and encouraged by two federal requirements: the discounted fare requirement and the 1990 Americans with Disabilities Act (ADA). Pursuant to the federal discounted fare requirement, public transit operators are required to provide a discount to seniors (defined as age 65 or older) and to persons with disabilities of up to 50 percent of the regular fixed route fare during off-peak hours. Generally speaking, the ADA guarantees equal access to services and programs for persons with disabilities. As a result, most public buses are equipped with lifts or ramps to ensure that public transit is accessible to persons with disabilities.

In addition, the ADA also 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 his or her residence door; 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 non-profit 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.

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 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 non-emergency Medicaid transportation service regions. The 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.

In December 2008 the DSHS applied to the federal Centers for Medicare and Medicaid Services to change its federal-state Medicaid match system from an administrative match system to a medical match system. Under the administrative match system, the federal government provides a 50 percent match rate, and the use of the funds is somewhat flexible. Under the medical match system, the federal match could be increased to as much as 70 percent; however, it appears that the use of these funds may be less flexible and subject to stricter audit and accounting requirements.

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 state 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 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.

Summary of Bill:

Modifications are made statewide to existing special needs transportation coordination efforts for the purpose of increasing coordination and maximizing efficiencies. Efforts to improve coordination is achieved by identifying local needs and services and by coordinating the

identified services regionally, within the existing 13 Medicaid non-emergency medical transportation regions (Medicaid broker region) as defined by the DSHS.

In each Medicaid broker region, a local coordinating coalition (LCC) is appointed, and a transportation broker (community access manager, or CAM) is designated, by the Agency Council on Coordinated Transportation (ACCT). The ACCT is directed to provide statewide oversight, and public transit agencies are required to work collaboratively with the LCCs and CAMs. Regional transportation planning organizations and transit agencies are required to include opportunities to advance special needs coordinated transportation in their transportation plans.

The ACCT is also required to:

- propose statewide policies and objectives to the Legislature, designed to advance the coordination of, and increase efficiencies in, special needs transportation services;
- develop goals and benchmarks, designed to assist the LCCs and CAMs advance their efforts;
- establish performance measures and objectives for evaluating the ACCT's progress in accomplishing its objectives, and the progress made in each region toward advancing coordination;
- develop common service definitions, and uniform performance and cost reporting systems;
- provide input and recommendations to local and regional planning organizations;
- make progress toward the goal of establishing a single clearinghouse for driver background checks in cooperation with the DSHS and Washington State Patrol; and
- at the request of the WSDOT, review and assess applications for state paratransit and special needs grants.

Membership on the ACCT is expanded to include three new voting members, increasing total membership from 14 to 17. The new members include a representative of regional transportation planning organizations; transportation brokers who provide nonemergency medically necessary trips to persons with special transportation needs; and the Washington State Association of Counties. The ACCT is required to vote annually to elect one of its voting members to serve as chair, and the position of chair must rotate among the voting membership at least every two years.

The statutory provisions terminating the ACCT on June 30, 2010 are repealed.

Local Coordinating Coalitions.

A LCC is created in each Medicaid broker region. The purpose of a LCC is to advance local efforts to coordinate and maximize efficiencies in special needs transportation programs and services. A LCC serves in an advisory capacity to the ACCT, by providing a focused and ongoing assessment of local transportation needs and services.

The composition and size of each LCC may vary by region, however, unless a joint LCC is created, total membership may not exceed seven. If a joint LCC is created, total membership may not exceed 13. Members of a LCC are appointed by the ACCT to two-year terms. Each LCC must include members that represent: the largest public transit agency serving the region; private service providers; civic or community-based service providers; consumers of special

needs transportation services; Medicaid nonemergency transportation brokers; and social and human services programs.

The members of a LCC must vote annually to elect a chair, and the position of chair must rotate among the members at least every two years. The regional transportation planning organization (RTPO) serving the region will provide staff support to the LCC. Meetings of the LCC must be open to the public and held in locations that are readily accessible to public transportation.

Each LCC is required to:

- identify local service needs, including connectivity gaps and other barriers to reliable and efficient transportation within and across service boundaries;
- consider strategies to address local service needs;
- collaborate with local service providers and operators to identify and propose common connectivity standards, including, at a minimum, standards that address signage, transit information, schedule coordination, and services provided to address access to and from a transit stop or facility;
- when practicable, advance local coordination initiatives, programs, and projects;
- assess service providers at least on an annual basis, using performance measure established in collaboration with, and approved by, the ACCT; and
- by December 1, 2010, submit its first annual report to the ACCT on its efforts to coordinate transportation, and thereafter, by November 1 of each year, submit an annual report to the ACCT that addresses connectivity gaps, strategies to address those gaps, and a performance analysis of the region's transportation broker (CAM).

Community Access Managers.

Following a competitive procurement process, a transportation broker (community access manager or CAM) is designated by the ACCT in each Medicaid broker region. The competitive procurement process must be established by July 1, 2010, and the ACCT must establish an evaluation committee to evaluate responses to the request for qualifications. The evaluation committee must consult with the appropriate LCC and other relevant transportation agencies and users of the transportation system, and must submit a list of not more than two finalists per region to the ACCT.

Once a CAM is designated, the ACCT must enter into a memorandum of understanding with each CAM, which must specify the roles and responsibilities of the CAM. The purpose of a CAM is, in cooperation with the ACCT, relevant transportation providers, and the appropriate LCC, to coordinate community special needs transportation services within its designated region. The CAM may also provide special needs transportation services within the region, and must seek to improve coordination of these services.

Subject to the terms of any existing agreement, the DSHS and Department of Health (DOH) must contract with the designated CAMs to provide special needs transportation services to their clients.

Each CAM must:

- collaborate with the appropriate LCC to identify the transportation needs and services within the region;
- contract with appropriate transportation service providers;

- coordinate the efforts of transportation service providers to maximize efficiencies; and
- establish a process that allows clients to comment on the system and services provided.

Transportation Information, Coordination, and Planning.

The WSDOT is designated as the special needs transportation information clearinghouse for the state. In providing this service, the WSDOT must establish and maintain an updated website with statewide information regarding transportation facilities and service providers. In addition, the WSDOT shall periodically provide special needs transportation information to the DSHS and DOH in a format jointly agreed to by the agencies. The DSHS and DOH are required to provide transportation information to those clients with special transportation needs.

Transit agencies are directed to work collaboratively with the LCCs and CAMs for the purpose of advancing the coordination of special needs transportation services. The transportation plan of a public transit agency and entity must include an element addressing specific steps the agency will take to maximize efficiencies in special needs coordinated transportation, and must also address opportunities to share resources and otherwise collaborate with other transit systems operating within that area or adjacent jurisdictions.

Special Needs Transportation Funding.

Applicants for paratransit/special needs grants must include an explanation of how the funding will advance coordination of services. In making final paratransit/special needs grants award decisions, the WSDOT must seek input from the ACCT. In awarding other special needs transportation grants, the WSDOT must give priority to projects that result in improved coordination or increased efficiencies.

Student Transportation Expenditures.

By December 31, 2010, the Office of Superintendent of Public Instruction is required to develop a uniform process designed to track additional expenditures related to transporting homeless students, including expenditures required under the federal McKinney Vento Act. The Superintendent must provide information annually to the ACCT on total expenditures related to the transportation of homeless students.

Pilot Projects.

The DSHS and WSDOT are directed to jointly implement two pilot projects involving public transit special needs transportation services. The departments must keep the ACCT apprised of their progress. One pilot must be designed to demonstrate opportunities for cost sharing among public paratransit and Medicaid non-emergency medical trips. A second pilot must be designed to test the feasibility of capturing the value of Medicaid trips provided by public transit agencies for which they are not currently reimbursed with a funding match by federal Medicaid dollars. By December 2011, the DSHS, WSDOT, and ACCT must issue a joint report to the transportation committees of the Legislature on progress made in implementing the pilot projects.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.