New York City Independent Budget Office

Focus On:
The Preliminary Budget

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As City and State Trade Blame Over Transit Funding, The Governor's Proposals Would Direct City Resources to MTA

The performance of New York City Transit, the public entity that together with the MTA Bus Company is responsible for providing subway and bus service within New York City, has been heavily criticized in the past year, as a public perception of declining service quality has been supported by multiple analyses of system performance and budget data, including an October 2017 report by IBO on subway delays. Subway ridership in 2017 was down around 2.0 percent from its 2015 peak, even as population, employment, and the number of visitors to the city increased. Bus ridership has been falling for years—a decline that is widely attributed to slow and unreliable service, as well as the rise of new on-demand ride services such as Uber and Lyft.

Elected officials in New York City and Albany, particularly the Mayor and Governor, share a concern for improving transit service, and concur that additional government funding is needed. However, there is disagreement between Mayor de Blasio and Governor Cuomo as to how responsibility for funding the transit system, particularly for the capital plan, should be split between the city and state. More fundamentally, the disagreement is over which level of government is ultimately responsible for the system's performance.

The Mayor points to the fact that the Metropolitan Transportation Authority (MTA), of which NYC Transit and MTA Bus are components, is a state public authority, largely under the control of the Governor. The Governor notes that many of the capital assets of NYC Transit, including the subway stations themselves, are property of the city. The report of the Fix NYC Advisory Panel, a group appointed by the Governor to propose solutions to the transit crisis, argues that the state legislation creating the MTA and NYC Transit never absolved the city, which had originally financed the subway, of the responsibility for maintaining the capital assets of the transit system.[1]

In the midst of this war of words, legislation has been introduced in Albany that would require the city and its property owners to provide additional funding to the MTA, ignoring the city's objections. If this legislation were enacted, the city could be forced to provide considerable new funding to the MTA without even the opportunity to discuss or challenge the actions by the state. The legislation also fails to provide the city with additional authority either to raise any necessary funds or to adjust required services in other areas of the budget, including state-mandated spending. The language in the Governor's budget bills is subject to change as state budget negotiations proceed and the Governor has indicated that his MTA funding proposals are "options," suggesting that alternatives might emerge. The following analysis is based on legislative language on the State Division of the Budget website as of March 8.[2]

Spending to Address Transit "Disaster Emergency"

On June 30, 2017 the Governor declared a "disaster emergency" for NYC Transit and called for development of a "stabilization plan" to deal with the major causes of service delays, including signal, track, power, and subway car issues.[3] The stabilization plan was initially estimated to cost $836 million and the state committed to funding half of the program. The Governor and the head of the MTA have maintained that the city should provide the remaining funding. The city has yet to do so and did not include funding for the stabilization plan in its Preliminary Budget for 2019. Meanwhile, the MTA has developed a broader $1.45 billion

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subway action plan (SAP) to tackle items identified in the stabilization plan plus other improvements. This plan again assumed equal contributions from the city and state, but with no additional funding from the city. In February the MTA revised the plan to instead defer some of the projects.

The Governor's Executive budget legislation includes a proposed amendment to the state's public authorities law that would require spending by the city to match any state spending whenever an emergency is declared relating "to the continuing failures and the condition of the track, signals and other infrastructure…" of NYC Transit. The city would have 60 days to match appropriations by the state. In the case of the stabilization plan put forward last summer, the city would have been required to appropriate over $400 million in unanticipated spending.[4]

Capital Plan Funding Responsibility

The Governor's legislative package included with this year's Executive Budget also includes language that aims to explicitly incorporate in the state's public authorities law the Governor's interpretation of the city's obligations for funding the capital programs for NYC Transit and MTA Bus. The law would be amended by adding that for each MTA capital plan, "…the city of New York shall provide in full all funding required to meet the capital needs of the New York City transit authority in such plan."

When the most recent MTA capital plan was approved, covering 2015-2019, the total for NYC Transit and MTA Bus was $16.5 billion. The city had agreed to increase its contribution from roughly $1.0 billion to $2.5 billion. If the proposed legislation had been in effect, the city would have been responsible for the $14.0 billion balance over the five years of the plan. By comparison, the city's Preliminary Budget capital plan calls for total capital spending to average about $10.9 billion annually, over five years.

Transit Improvement Districts

A third section in the Governor's budget legislation would allow the MTA to designate "transit improvement subdistricts" that would extend up to one mile from the site of significant MTA capital projects. Subdistricts could be defined around projects with a value of $100 million or more and could include not only new projects, but also those built since 1981. Within these subdistricts an additional property tax assessment would be imposed on property owners based on an analysis conducted for the MTA of how much of the value of the properties in the district could be attributed to the existence of the project. Revenue from the districts would flow to the MTA and could be used either for capital or operating purposes.

Although this proposal has been described as a form of "value capture" similar to what was used to fund infrastructure improvements in Hudson Yards, there are important differences. The districts, with a maximum radius of 1 mile from the project, cover more area than typically assumed for the range of a project's impact. The funding streams from each subdistrict are also not tied to the financing of the specific project, nor does the revenue flow end when the debt service for a project is completed—the money would flow to the MTA forever. The provision to allow districts to be defined around projects that have been long-completed, and in many cases already paid off, means owners would be charged for a benefit, even though the benefit has no current cost to the MTA. Since city property taxes in the district already reflect the (presumably) positive effects of the transit investment, owners would be paying twice for the same investment. Finally, having the proceeds from the assessment flow to the MTA for general purposes means those paying the assessment are being asked to fund not only projects benefitting them directly, but also projects throughout the MTA, including the suburban railroads, which are not included in the Governor's transit improvement subdistrict proposal.

While the plan would impose a surcharge on the existing city property tax rather than diverting city revenue, depending on how common such districts were to become, the proposal could constrain the city's ability to continue raising property tax revenue. With taxpayers assessed an additional MTA charge, it would be that much harder for the city to rely on the property tax for its own needs.

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ENDNOTES

[1]Section 1266-c of New York State Public Authorities Law states as follows:
10. The providing of any transit project shall not relieve the city of New York of its obligations under law and by lease to pay the capital costs of the New York City transit authority or its subsidiaries.

[2]https://www.budget.ny.gov/pubs/archive/fy19/exec/fy19artVIIs/TEDArticleVII.pdf

[3]https://www.governor.ny.gov/news/no-168-declaring-disaster-emergency-five-boroughs-new-york-city-and-counties-dutchess-nassau

[4]Similar legislation that would require the city to match state spending has also been introduced by State Senator Jeffrey Klein. In the event that the city doesn't comply, the legislation would authorize the state to withhold some of the sales tax revenue collected by the state, but payable to the city, until the necessary amount of money had been captured by the state.