The Need for Limitations on Federal Mass Transit Operating Subsidies: The Chicago Example

Henry Lowenstein*

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* Professional Lecturer in Management, University of Illinois at Chicago Circle, College of Business Administration, Department of Management, B.S. Virginia Commonwealth University, 1975. M.B.A. The George Washington University, 1976. Ph.D. (candidate) (Labor and Industrial Relations) University of Illinois at Urbana-Champaign. The author gratefully acknowledges the assistance of Deborah Lowenstein in compiling this article.

I. INTRODUCTION

The Reagan Administration, in its efforts to reduce the size of the Federal budget, has proposed limitations and eventual curtailment of Federal operating subsidies to the nation's urban mass transportation systems. The operating subsidies (also known as the "Section 5 Program") at this time cost the Federal government in excess of $1 billion per year.[1] As of 1978, total subsidies at all levels of government were $2.2 billion per year. The U.S. General Accounting Office estimates that if present trends continue, the amount needed by 1985 would be $6.5 billion.[2]

The Federal government has long been involved in various aspects of mass transportation. However, it was not until 1964 that Congress formally initiated a program of Federal mass transit subsidies with the enactment of the Urban Mass Transportation Act (UMTA). This act authorized grants which would cover up to two-thirds of the cost of mass transit capital equipment and facilities.

The National Transportation Assistance Act of 1974 added Section 5 to the 1964 Act, further expanding subsidies and for the first time providing for operating subsidies. Congress authorized $3.9 billion over a six-year period to be used by local authorities at their option for either capital or operating needs.[3]

It is important to note that Section 5 subsidies were not allocated based on rigid criteria of local transit needs, nor on the efficiency of a given area's urban transportation system. Instead, the funds provided to public transit agencies were allocated based on population and population density. The legislation enacted in 1974 stipulated that Federal monies could not be used to replace already existing state and local subsidies. However, this provision was modified by the Surface Transportation Act of 1978 which allowed state and local subsidies to be replaced by farebox revenues.[4]

The proposals of the current Administration which would abolish the Section 5 program have stimulated considerable debate among practitioners and policy makers in the transportation field as to the potential impact

1. COMP. GEN. OF THE UNITED STATES, SOARING TRANSIT SUBSIDIES MUST BE CONTROLLED, at 6 (1981) [hereinafter referred to as COMP. GEN. REPORT].
2. *Id.*
3. D. HARPER, TRANSPORTATION IN AMERICA: USERS, CARRIERS, GOVERNMENT, at 374-75 (1978).
4. COMP. GEN. REPORT at 3-4.

on mass transit systems. Some argue that there would be an initial negative impact as transit agencies went through the process of transforming their systems to operate without Federal funds. It is also argued that the resultant economies which would have to be made by transit managers would, in the long-run, insure the survival of urban transit systems and at the same time decrease local dependence on Washington.

Others argue that the loss of Federal monies would cause great financial hardship to localities. These individuals contend that transit systems in the large cities would collapse and that state and local governments would be forced to impose massive fare hikes, to enact increased taxes, and to reduce services in order to maintain their mass transit systems. Small transit systems, now heavily dependent on the Federal assistance, would likely go out of business without alternative financing.

It is unclear as to which side of the debate over the reduction in Federal subsidies is correct, and the effects of such a policy will not be determined for some time. However, a broader question needs to be addressed and that is how have the Federal monies been spent. Have the Federal monies contributed to the efficiency of mass transit systems by providing the public with the best possible services at the lowest cost (as Congress intended) or have the monies been misallocated by local political managers, using their mass transit systems to serve parochial political interests?

This paper will briefly investigate the critical issue of "how the money is spent" by examining mass transportation in the Chicago, Illinois metropolitan area. The Chicago area mass transit network is the second largest system in the United States, carrying almost a million passengers a day. The Regional Transportation Authority (RTA) was established in 1974 to govern mass transportation in the six-county area ("collar counties") surrounding and including the City of Chicago.[5] This system is composed of seven commuter railroads, bus and rapid rail operations of the massive Chicago Transit Authority (CTA), and twenty-five suburban bus companies.

The Chicago area has been involved in mass transportation since before the turn of the century. While differences exist between the Chicago system and other transit systems, many of the Chicago area's problems are not unique. Therefore, an examination of the Chicago system can provide insight into the problems of mass transportation in other cities. In order to later discuss cost problems in the Chicago system it is necessary for the reader to understand the historical background of the RTA.

II. The Regional Transportation Authority (RTA)

The RTA was formed in 1974 as the result of an extreme financial

5. The RTA region includes the Illinois counties of Cook (including the City of Chicago), DuPage, Lake, Kane, McHenry, and Will.

crisis which was experienced by Chicago area transit operators in late 1973. The Chicago Transit Authority (CTA), formed out of a similar fiscal crisis in 1945, was threatening to raise fares and reduce services. Suburban bus companies were on the verge of collapse, and commuter railroads had filed for massive fare increases with the Illinois Commerce Commission.[6]

Coinciding with the 1973 Chicago area transit crisis was the development by Congress of new Federal capital and operating subsidies which later became provisions of the Section 5 program enacted in 1974. However, the proposed Federal legislation mandated a regional approach to mass transportation.[7] This Federal requirement bolstered arguments by Chicago politicians who favored the establishment of a regional system which would be able to tap suburban resources to "bail out" the ailing CTA system.

As a result of Federal requirements and pressure from Chicago politicians, the Illinois General Assembly was forced to form an entity to govern mass transit in Chicago and its six "collar" counties. Federal money thus helped contribute to forcing bitter rivals (i.e. the city and the suburbs) into a single governing body.

The proposed RTA Act was structured so that the majority of the Board of Directors would be appointed by the Mayor of Chicago and by the Cook County Commissioners. Many citizens perceived that the RTA would control the entire regional system at the expense of the suburbs and that most benefits would accrue to the City. The RTA concept was hence unpopular and barely passed in a public referendum. A shift of less than .5% of the votes cast would have defeated the RTA.[8]

With the establishment of the Regional Transportation Authority Act of 1974,[9] the thirteen member RTA Board was given broad powers to oversee the area's mass transit system. The Board was given the power to set fares, and to distribute tax monies and subsidies derived from Federal, state, and local sources. The Board would also be allowed to issue bonds, and impose a gasoline and parking tax.[10] The gasoline tax was replaced in 1979 by a 1% sales tax in Cook County and a .25% sales tax in the "collar counties."

In addition, the Board was required to plan and coordinate mass transit, improve the level and quality of service, and to improve facilities and equipment. The Board was granted broad powers to audit member carriers

6. Tecon, *The Regional Transp. Auth. in N.E. Ill.* May-June CHICAGO BAR RECORD 13 (1975) [hereinafter cited as Tecon].

7. *Id.* at 15.

8. *Id.* at 18.

9. ILL. REV. STAT. ch. 111⅔, § 701.01f.f. (Cum. Supp. 1981-82).

10. *Tecon* at 23-30.

and to stimulate innovation in transit management and cost control techniques.[11]

The RTA presently operates with a budget of $834.4 million.[12] Of that amount, approximately 39% is derived from farebox revenues.[13] Section 5 federal subsidies amount to $80.7 million or 9% of the total budget. Recent reductions have brought the federal operating subsidy to 7% of the total RTA budget.[14] The Federal subsidy appears relatively low, yet it is a substantial amount of money — an amount equal to the RTA's projected short-term deficit in early 1981.

Carrier costs within the RTA are broken down as follows: 70% - Chicago Transit Authority (CTA); 25% - commuter railroads; and 5% - suburban bus systems.[15] The commuter railroads are the most efficient carriers, recovering 60% of their costs from the farebox.[16] Cost recovery from the farebox is 51% in the CTA and 42% in the suburban bus system.[17] (Recent fare increases have forced the commuter railroads into recovering nearly 100% of their costs from the farebox.)

III. RTA AND THE COST PROBLEM

We now come back to our original question. Have Federal operating subsidies stimulated efficient and improved transit services at the lowest cost? In the Chicago area it appears that these funds have contributed to inefficient, rather than efficient, operations. Since 1970, costs in the RTA have risen 178% (91% greater than the rise in inflation for the same time period).[18] Vehicle miles for the same time period actually declined .8%. However, from 1974 to 1979, alone, the RTA operating deficit rose a whopping 205.9%![19]

Many of the cost increases can be explained by needed improvements in the system and by inflation. However, the bulk of the cost problems occurred because the RTA Board was incapable or unwilling (primarily for political reasons) to control expenses.

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11. ILL. REV. STAT. ch. 111⅔, § 702.20 (Cum. Supp. 1981-82).

12. The Metropolitan Housing & Planning Council, Regional Transp. Auth.: Future, Financing, Structure and Operations at 30 (Dec. 1980) [hereinafter cited as 1980 RTA Report.]

13. *Id.*

14. *See* CHI., ILL. ORDINANCE NO. 79-123 (June 29, 1979), *as amended by* CHI., ILL. ORDINANCE NO. 80-44 (Feb. 25, 1980) [Regional Transp. Auth. Budget for Fiscal Year 1980].

15. 1980 RTA Report at 30.

16. *Id.* at 10 [Fiscal Year 1979].

17. *Id.*

18. *Id.* at 7.

19. *Id.* at 8.

A. Labor Costs

Cost problems occur throughout the RTA system, but the system's overwhelming cost problem is that of labor, particularly within the Chicago Transit Authority (CTA). For fiscal year 1981 labor costs amount to 77% ($436 million) of the CTA's total operating costs.[20] Furthermore, CTA labor costs are so massive that they, alone, account for 52% of the total Regional Transportation Authority budget.[21]

The City of Chicago currently has the highest paid transit workers in the continental United States. The typical CTA worker earns an average $24,336 per year in salary alone, and when benefits and overtime are added this figure rises to over $30,000 per year.[22] This includes two bus drivers who currently receive wages of over $50,000 annually.[23] Prior to December 1979, CTA workers were awarded quarterly pay increases (cost of living adjustments) which, because of the contact allocation formula, actually exceeded 100% of the increase in the Consumer Price Index.[24] The cost of living adjustments have now been reduced to 35% of the CPI.

A national comparison of transit wages reveals that transit workers in Chicago earn far more than their counterparts in other large cities with similar cost of living levels. For example, the $11.87 average hourly pay of a CTA bus driver exceeds the wages paid in other cities by the following amounts:[25]

Philadelphia	46%
New York	35%
Detroit	29%
St. Louis	24%
Washington, D.C.	9%
Boston	8%

If the CTA paid the same wages as the New York City transit system, it could save an estimated $100-150 million. This amount is equivalent to nearly twice the amount of the Federal operating subsidy to the RTA and is equal to the RTA's fiscal year 1981 deficit.[26]

CTA wages may also be considered high when compared to the compensation paid to other public and private sector employees in the Chicago

20. Chi. Transit Auth., CTA Proposed 1981 Budget at 20 (Dec. 1980) [hereinafter referred to as Proposed 1981 Budget].
21. *Compare* Proposed 1981 Budget at 20 *with* 1980 RTA Report at 30.
22. Strong, *Inflation Nails City Workers*, Chi. Tribune, Nov. 23, 1980 § 1, at 5, col. 1.
23. Chi. Transit Auth., Salary Range of Union Employees (Dec. 20, 1980) (internal document).
24. Local 241 and Local 308 Amalgamated Transit Worker's Union Contract with the Chi. Transit Authority, Nov. 1979.
25. Statement of the Metropolitan Hous. and Plan. Council, Civic Coalition Task Force on Transp., Regarding Regional Transp. in N.E. Ill. at 11 (Mar. 31, 1981) [slides 15 and 16]. *See also* Mabley, *'Fat Cats' Eating Up Transp. Funds*, Chi. Tribune, June 28, 1981, § 1, at 4, col. 1.
26. 1980 RTA Report at 30.

area. For example, Chicago transit workers earn 13% more than police and firefighters and 12% more than suburban transit workers.[27] The CTA wage is only slightly less than that of skilled craft workers employed by the City of Chicago. Ironically, CTA operating employees earn more than most staff workers in the RTA itself. In fact, CTA wages are 80% higher than the average private sector industrial wage in the area and higher than salaries paid to many mid-level managers and professional workers.[28]

The labor cost problem is not simply a matter of the high levels of compensation paid. Rather, it is exacerbated by a precipitous decline in productivity experienced over the last decade. Since 1970, the workforce of the CTA has increased by only 3.7%, yet labor costs have increased 127% (40% greater than inflation).[29] In addition, for the same time period, total vehicle miles have decreased 13%, miles per employee have decreased 16%, and miles serviced per hour have dropped 10%.[30] Attempts by the system to hire large numbers of part-time workers which would reduce transit costs and improve productivity have been thwarted by the transit unions. An amount equal to half the RTA's Section 5 subsidy could be saved with a mere 10% increase in CTA productivity. Unfortunately, the CTA is projecting an additional reduction in output for fiscal year 1981 of 5.2%.[31]

Why have labor costs not been controlled? The answer can be found in an examination of area politics, Federal subsidy programs and Federal legislation. Looking at the political aspect, Chicago is a city where labor unions have always played a major role in local politics. Throughout the years, transit unions have been closely allied with the powerful Chicago (Cook County) Democratic Party and with Democratic Mayors. As a result of this alliance, transit managers, who were political appointees themselves, were under great pressure from the political establishment to acquiesce to union demands in labor negotiations. In fact, in recent testimony the President of the labor union representing bus drivers in the CTA testified that many costly provisions of the union's contract were not requested by the union. Rather, these items were voluntarily offered by the CTA.[32]

The Section 5 Federal subsidy program also appears to have been a

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27. Strong, *Inflation Nails City Workers*, Chi. Tribune, Nov. 23, 1980, § 1, at 5, col. 1.

28. Ranney, *A Proposal to Cut Wages of Employees of the RTA*, Chi. Tribune, Feb. 16, 1981, § 5, at 2, col. 3. *See also* H. Lowenstein, Responsibility and the RTA-Report to the Regional Transp. Auth. on Proposed 1980-81 Fare and Service Actions at 2-4 (Dec. 11, 1980) [hereinafter cited as Lowenstein Report].

29. 1980 RTA Report at 16.

30. *Id.*

31. 1981 Proposed Budget at 19.

32. Testimony of John Witherspoon, President, Local 241 of the Amalgamated Transit Workers Union before the Ill. House of Repre. Proceedings of the House Select Comm. to Investigate the Regional Transp. Auth.—Chi. Hear. (Mar. 9, 1981).

stimulus to local political leaders in accomodating union demands. Such funds could be used to appease transit labor unions without imposing a financial burden on commuters or local taxpayers. The use of Federal funds for satisfying local political interests was successful in the short run, but with the acceleration of inflation in the 1970's and 1980's, labor costs rapidly outstripped the growth of government subsidies. The resulting cost burden has been the number one cause of the current mass transit fiscal crisis in the Chicago area. In fiscal year 1981, the increase in labor costs in the Chicago transit system ($37 million) alone will exceed 50% of the total Federal subsidy provided to the entire regional transit system.[33]

The Federal government itself has contributed directly to local transit labor cost problems through legal restrictions such as Section 13(c) of the Urban Mass Transportation Act of 1964, as amended.[34] This section imposed regulations which protected organized labor in transit agencies receiving Federal funds. The protections included:

1. the preservation of rights. . .under existing collective bargaining elements. . .;
2. the continuation of collective bargaining rights;
3. protection of individual employees against a worsening of their position with regard to their employment;
4. assurance of employment to employees of acquired mass transit systems. . .; and
5. paid training or retraining programs.[35]

Furthermore, all grant applications submitted by local transit agencies to the U.S. Department of Transportation had to be "cosigned" by the appropriate transit union. This provision had the potential to be abused as a bargaining tool by the transit unions to pressure transit agencies for contract concessions.[36]

Section 13(c) had been established primarily to protect the employees of private transit companies which were being purchased by State and local governments. Since many states prohibited public employee collective bargaining, the Congress wanted to ensure that employee rights previously held under private ownership were maintained under public ownership.[37]

The language of Section 13(c), however, contains no restrictions which prohibit hard bargaining between a transit system and its union. Furthermore, there is nothing in the law which prohibits the subsequent removal, reduction, modification by negotiation or state statute, or limitation enacted

33. Proposed 1981 Budget at 20.

34. 49 U.S.C. § 1609 (1976 & Cum. Supp. 1979).

35. *Id.*

36. K. JENNINGS, J. SMITH, & E. TRAYHAM, LABOR RELATIONS IN A PUBLIC SERVICE INDUSTRY: UNIONS, MANAGEMENT AND THE PUBLIC INTEREST IN MASS TRANSIT, 130-31 (1978).

37. *Id.* at 128-29.

by the state legislature on permissible contract provisions or compensation levels.

The language of Section 13(c) was incorporated into the Regional Transportation Authority Act which was passed in 1974.[38] Unfortunately, many Chicago area transit managers and Illinois state officials, even today, believe that this law prohibits them from demanding substantive contract concessions from their unions. Such interpretations, encouraged by the transit unions themselves, have served to dampen the resolve of Illinois legislators to further define the permissible scope of public transit labor contracts and of transit managers to demand major changes in such contracts.

Another factor contributing to excessive labor costs in local transit systems has been the expense of commuter railroad labor, exacerbated by Federal railway labor laws. In recent years, commuter railroad services have been, for the most part, relegated to that of a public or quasi-public service under the auspices of regional public transit agencies. Yet Federal railway labor law has not been modified to reflect changes in the nature of the rail industry nor to relieve the burden placed on public transit systems. Railroad corporations have been unwilling to jeopardize labor relations in their profitable freight systems to accomodate local commuter services which operated at the break-even point or at a loss.

The RTA contracts for service with seven privately-owned commuter railroads. These railroads also operate a substantial freight transportation system. The RTA is not a party to the contract negotiations of its member railroads and is thus forced to pay whatever costs accrue from national rail labor contracts. Without locally negotiated labor contracts the RTA, like other transit agencies, is powerless to control the bulk of commuter railroad costs.[39]

In the Chicago Transit Authority only one major labor cost change has occurred in the past five years, i.e. a reduction in the cost of living adjustment clause and a provision for the hiring of approximately 600 part-time workers.[40] This change occurred following contract negotiations in December 1979, and precipitated an illegal strike by Chicago transit workers. The dispute was sent to binding arbitration for resolution.

The arbitrator reduced the cost of living adjustment from 100% of the change in the Consumer Price Index (CPI) to 35% and allowed for the use by the CTA of approximately 600 part-time workers.[41] The CTA has esti-

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38. ILL. REV. STAT. ch. 111⅔, § 702.16 (Cum. Supp. 1981-82).

39. Letter from Mr. Lewis Hill, Chairman of the Regional Transp. Auth., to Henry Lowenstein (July 1, 1981).

40. In the Matter of Chicago Transit Authority and Local 241 and Local 308 Amalgamated Transit Workers Union, May 16, 1980, (Dworkin, Chief Arb.) (modification to the Wage and Working Contract, Dec. 1, 1974).

41. Lowenstein Report at 2-4.

mated that this change would save about $20 million per year (4% of total annual labor costs). However, transit workers hired prior to 1978 (over 95% of the 14,000 member work force) won a "No layoff" guarantee which has the potential for exacerbating future labor costs far beyond the initial cost savings.[42]

B. Management Costs

We now turn to the question of how Chicago area mass transit management controls its own costs. Does the RTA management play a leading role in promoting the mass transit system, in stimulating high system performance, and in controlling costs? Management costs constitute only a small percentage of the total RTA budget. By examining the process by which management conducts its own affairs, however, one can gain some insight into the way public monies are utilized in the mass transit system as a whole. Furthermore, the example set by top management in its operations strongly influences the degree of dedication to fiscal control exerted by other transit employees and departments.

C. RTA

The RTA spends nearly $14 million annually on its own administration. This represents nearly 2% of the total RTA budget and is equivalent to 17% of the Federal subsidy provided to the RTA. Almost $2 million of the total administrative expense is expended on the RTA Board alone.[43]

With the exception of the Chairman, membership on the RTA Board (a part-time job) pays $25,000 per year.[44] The Chairman receives $72,500 per year.[45] These salaries exceed those of most other State of Illinois employees. For example, the Governor of the State of Illinois earns only $58,000 annually and Illinois legislators are paid only $28,000.[46] No member of the present RTA Board has any training in or experience from the transportation industry.

Members of the RTA Board openly display little confidence in the mass transit system. Only one board member actively utilizes the RTA system. Other members use private automobiles while the RTA Chairman maintains a chauffeur-driven limousine at public expense. Last year the RTA spent $129,300 for local travel, most of which was by automobile.[47] This situa-

42. *See* Regional Transp. Auth., Proposed Five-Year Transit Program Fiscal Years 1981-1985 and Proposed Annual Program and Estimated Budget for Fiscal Year 1981 (April 1980).

43. *Id.*

44. Ill. Rev. Stat. ch. 111⅔ § 703.04 (Cum. Supp. 1981-82).

45. *Id.*

46. World Almanac and Book of Facts 1982 at 322 (1982).

47. Chi., Ill. Ordinance No. 79-123 (June 29, 1979) *as amended by* Chi. Ill. Ordinance No. 80-44 (Feb. 25, 1980).

tion exists despite the fact that all RTA employees are allowed to ride free in the transit system.

The RTA's financial controls have been quite lax. A recent investigation by the Auditor General of the State of Illinois revealed that documentation of travel and entertainment expenses were either inadequate or nonexistent. The report also revealed that there was a lack of security in regards to blank agency checks, along with inadequate controls over fixed assets, payroll, and information systems. Inadequate accounting systems resulted in instances of overpayments of invoices and carrier subsidies.[48] In addition, some RTA Board members were actually paid in excess of the statutory limit on their compensation.[49]

The RTA has been successful in saving money by consolidating some of its administrative functions such as fuel, insurance, and equipment purchases. However, the RTA has been unsuccessful in getting its carriers to eliminate personnel which was required to handle such functions for each of the individual carriers prior to the consolidation. Costly administrative duplication, therefore, continues to exist.

D. CTA

The Chicago Transit Authority presents an even more blatant example of excessive costs and administrative waste. No one knows for sure what are the total costs of the CTA's administration. The agency refuses to disclose, even to the Governor or Illinois General Assembly, consistent or accurate figures on its costs. Estimates place the CTA's administrative expenses between $11 million and $15 million annually.[50] This amount represents approximately 14% to 18% of the total Federal operating subsidy received by the RTA. Although it is ostensibly an independent, quasistate agency, the CTA, with its seven member board, has long been controlled by the Mayor of Chicago (only three members are appointed by the Governor).

No member of the CTA Board (as in the case of the RTA) has had training or experience in the transportation industry (a possible exception being the Chairman, Eugene Barnes, who is a former bus driver). CTA Board members receive salaries of $15,000 a year with the Chairman re-

48. Egler and Lochin, *Report Rips RTA Financial Management Practices*, Chi. Tribune, June 9, 1981, § 1, at 3, col. 1.

49. Young, *No Cuts for RTA Expense Accounts*, Chi. Tribune, Jan. 11, 1981, § 1, at 10, col. 3. Young, *Transit Board Costs Up 170% in 7 years*, Chi. Tribune, Feb. 17, 1981, § 1, at 3, col. 1.

50. This estimate is made by applying to the CTA's budget the same administrative overhead percentage that exists for RTA.

ceiving $75,000 annually.[51] The CTA Board of Directors has resisted most attempts to establish internal cost controls. This deficiency has been receiving growing attention in the Chicago media as the current transit crisis has worsened.[52]

All CTA employees are permitted to ride the system free of charge, yet approximately 100 individuals are provided with free agency automobiles for their personal use. These individuals also receive free parking in downtown Chicago and fuel. The estimated cost of providing these perquisites is $1 million. Included in this group are two automobiles provided to the CTA Chairman and an additional automobile for his $36,000 per year personal secretary.[53] In the midst of a severe financial crunch, the CTA this year purchased $151,000 worth of new full-size automobiles and has refused to disclose the reasons for this purchase.[54]

The CTA has long been accused of harboring a substantial number of political patronage workers. It is difficult to ascertain which positions are legitimate and which are unnecessary, however, recent CTA documents have revealed some interesting items.

The CTA currently employs twenty-two "management interns" at an average salary of $26,000 per year, ten individuals listed as "unassigned" who earn an average $28,000 annually, and sixty-four "assistant supervisors" with undesignated areas of supervision who earn an average $30,200 a year.[55] Furthermore, the CTA employs eighteen "executive secretaries" who earn an average of $27,450 and seven "confidential office assistants" who earn an average of $21,600.[56]

Total CTA expenditures (excluding benefits) for these questionable employment categories exceeds $3.5 million a year.[57] The amount of these expenditures exceeds the total annual mass transit subsidy paid by the RTA to a typical collar county such as McHenry County, Illinois. The expenditure also is equivalent to the cost of a monthly commute for over 77,000 CTA riders.[58]

Other employment and management practices of the CTA have come

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51. Metropolitan Transit Authority Act of 1945, ILL. REV. STAT., ch. 111⅔ § 319 (1966 & Cum. Supp. 1981-82).

52. *CTA Slates Meeting on Pay, Service Cuts*, Chi. Sun-Times, June 4, 1981, § 1, at 1, col. 1.

53. Statement of Walter Jacobson on WBBM-TV/CBS News in Chicago, Mar. 9, 1981, *reprinted in* W. Jacobson, Perspectives, March 9, 1981.

54. Statement of Walter Jacobson on WBBM-TV/CBS News in Chicago, July 18, 1981, *reprinted in* W. Jacobson, Perspectives, July 18, 1981.

55. Chi. Transit Auth., 880 Non-Union Management and Professional Positions (undated internal CTA document).

56. *Id.*

57. *Id.*

58. *Id.*

under increased public criticism, such as the amount of travel and entertainment expenses. A scandal developed recently when inadequate security at the CTA fare counting facilities was revealed. Hundreds of thousands of dollar bills were found in disarray and uncounted on the facility's floors while the building's entry doors were found to be unsecured.[59]

E. System Costs

The Chicago area mass transit system was constructed at the turn of the century by private entrepreneurs. Commuter railroads, the rapid rail system, and later, bus companies competed with each other for passengers. However, with the advent of public ownership under the CTA in 1945 and the RTA in 1974, the necessity to maintain redundant, formally competitive routes ended for the most part. In addition, many of the routes which exist to this day service areas long abandoned by the bulk of industry and population.

In 1974, the State of Illinois contracted with a group of consultants to develop a logical, efficient route system for the metropolitan area. The $282,000 study documented over eighty-three instances of duplicative or competing transportation services, primarily between the CTA and other carriers. While the RTA recognizes the existence of this duplication, they have refused to fundamentally reform the present system's route structure. Privately, RTA insiders have conceded that the duplication is maintained primarily for political considerations such as maintaining service in the wards of powerful politicians and/or interest groups.[60]

Suburban bus operations have proven to be an especially costly and growing problem for the RTA system. Overall, suburban bus services have the poorest ridership and farebox recovery rates of all RTA carriers. The RTA continues to expand suburban operations despite this poor record and the fact that the commuter railroads remain the primary mass transportation mode of suburban commuters. As a gross example of this point a recent study revealed that there was a RTA suburban bus route which operated from 1977 to 1980, yet never recorded a single passenger during the time period.[61]

Service economies in the CTA, commuter railroads and suburban bus systems, have only recently received strong public attention and have proven to be elusive. Savings have been difficult to achieve, either for political reasons or due to the restrictive labor work rules of transit unions. The tragedy of the situation is that Federal and state subsidies continue to pay

59. Benjamin and Franklin, *Police Told to Protect CTA's Counting Room*, Chi. Tribune, July 18, 1981, § 1, at 3, col. 1.
60. Young, *RTA cuts: 'Efficiency Has Nothing to Do With it'*, Chi. Tribune, June 28, 1981, § 1, at 4, col. 1.
61. Knott, *Why RTA Doesn't Work*, Chi. Tribune, July 6, 1981, § 1, at 1, col. 5.

for and encourage such inefficiencies and misallocations in the system. Operating subsidy programs have not encouraged nor stimulated the economies needed by mass transit systems such as those of the Chicago area.

IV. The Present Situation in Chicago[62]

Beginning early in 1980, the RTA began to experience mounting financial problems. Costs were exceeding revenues, which led to a short-term deficit of $80 million while the projected deficit for the fiscal year was estimated to be $150 million. The RTA requested a fare increase, but later postponed that action and the legislature tabled pending transit legislation until after the November 1980 elections.

In December 1980, the RTA proposed a massive 66% increase in fares and 29% reduction in service. Studies and evidence submitted during public hearings revealed that at least two-thirds, or $100 million, of the anticipated deficit could be recovered by reductions in operating costs and by improvements in the RTA's management techniques.[63] Despite overwhelming public evidence for reform, the RTA Board proceeded to implement a 33% fare increase, no service cuts, and no cuts in operating costs. The balance of the fare increases were deferred pending possible actions by the Illinois General Assembly.

When the Legislature convened in January, the mass transportation issue was a major order of business. A Select Committee of the Illinois House of Representatives held hearings to investigate the RTA situation for the Legislature. The Committee received overwhelming evidence of the need for system reform and cost control. This was also confirmed by an independent audit by a leading accounting firm completed under a contract with the Committee.

Many legislative proposals for increasing revenue to the transit system were offered in the session, including a 5% gross receipts tax on oil companies, an increase in the state sales tax, an increase in liquor and cigarette taxes, and an increase in the state income tax. All of these measures eventually failed to pass. Governor James Thompson as well as suburban and downstate legislators demanded reform of the transit system, including changes in its structure and increased managerial accountability as a condition for any mass transit funding package.

City of Chicago Democratic legislators resisted any attempts to weaken their political control over the mass transit system and, therefore, defeated all House proposals which came before the State Senate. Near

62. This section is a summary of events in the Chicago area mass transit crisis. The summary was compiled by the author from numerous articles appearing in the Chi. Tribune, the Chi. Sun-Times, and the Daily Herald newspapers from November 1980 to July 1981.

63. Lowenstein Report at 1-2.

the end of the session the Mayor of Chicago publically announced that she would take over and run the CTA, a statement which impeded any further efforts by the Legislature to resolve the situation. The Legislature adjourned at midnight on June 30 without a solution to the mass transit crisis.

Meanwhile, the Chicago area transit system found itself in a deepening financial crisis which was far more severe than that experienced in 1973. On at least three separate occasions the RTA was on the verge of a complete shutdown of its operations. Service was sustained only by the advancement of state sales tax monies by the governor and by the RTA's deferral of debts owed to vendors.

By May 1981, the RTA was facing numerous crisis situations. The lack of contract payments to the Chicago and Northwestern Railroad forced the RTA to assume direct operation of the bankrupt Rock Island Railroad commuter line (which the Chicago and Northwestern had operated for the RTA). Later that summer, the Chairman of the RTA secretly paid excess sales tax monies, which were normally designated by law for suburban operations, to the CTA. As a result of that action, four suburban bus lines immediately shut down and others severely curtailed their operations. A Federal judge gave the bankrupt Milwaukee Railroad authority to halt operations if it was not paid its subsidy. Such a move would have been followed by a suspension of service by all commuter railroads in the area due to their inability to handle the overflow of passengers from the Milwaukee Road.

Finally, in July 1981, the RTA Board raised fares 12.5% for the CTA and from 57% to 75% on the commuter railroads and suburban buses. In addition, $26 million in service cuts were proposed for later enactment.

With the approval of City Council, the Mayor of Chicago (now forced to support the CTA) immediately levied three new taxes: a 1% tax on professional services (such as those provided by lawyers and doctors), a 1% increase in the sales tax, and an increased cigarette tax. The legality of these taxes has been challenged in the courts, and as of this writing the City has been unable to arrange sale of the tax anticipation notes needed in order to borrow funds for the transit system. The Mayor has also begun the process of appointing her own thirteen-member transit board which will effectively usurp control of the CTA as a condition for financing.

At no time during the present crisis has the RTA or the CTA made any major effort to curb expenses. The RTA and the CTA have steadfastly refused to ask their unions for even temporary wage reductions. There were no layoffs despite service cuts and administrative costs (including purchasing) have not been substantially reduced.

Recent fare increases have resulted in negative consequences to the transit system. There has been a reversal in the recent trend towards increasing ridership with the system suffering an average 20% to 30% reduction in ridership. Where parallel lines to the CTA exist, railroad commuters have flocked to the relatively less expensive CTA service, thus taxing the capacity of CTA's system. The loss of commuter support has prompted RTA officials to belatedly concede that they are in danger of pricing themselves out of the market.

Dissatisfaction with the results of the RTA's management of the transit system has stimulated the search for alternative methods of transportation by commuters. Private charter bus services to the City have begun from western suburbs and private employers are increasingly supplying employee shuttle bus (feeder service) between key commuter railroad stations and downtown Chicago. These private, non-subsidized carriers operate only premium rush hour service, yet charge a fare 20% to 50% below that of the RTA. Ironically, at this lower fare level these carriers are able to provide high quality service while being able to break-even or show a profit.

Additionally, car-pooling has increased and the transit situation is fostering an on-going trend away from the City by employers and employees. For the suburban worker incentives now exist to seek employment closer to home and for employers to relocate away from the City of Chicago in order to save money.

Those individuals who depend heavily on the public transit system have no alternative and must, therefore, pay an increasing percentage of their incomes for transportation costs. Commuters in the Chicago area must now wait until October 1981 for the Illinois General Assembly to reconvene and once again attempt to develop a solution to the mass transportation crisis.

V. The Fate of the Federal Subsidy Program

This brief summary of the events in Chicago presents us with compelling evidence of why the Reagan Administration has chosen to gradually phase out mass transportation subsidy programs. Too often, as in Chicago and other areas of the nation, Federal transit monies have not been used to fundamentally improve transit services to the public. Rather, government subsidies at all levels have been spent to cover unreasonable labor costs, excessive administrative overhead, the maintenance of artificially low fares, and costly, inefficient route systems. Federal monies have helped to insulate local political managers from the hard decisions which must be made to substantially improve the quality of service and cost effectiveness of their urban mass transportation systems. Rather than make needed reforms, more money has been demanded by these local systems.

A recent U.S. General Accounting Office report concluded that mass transit systems must do more to control costs and improve productivity. It also stated that the Federal government needs to do more to assist in this effort.[64]

The Reagan Administration, with its avowed commitment to reducing the Federal budget, is faced with basically two courses of action in the mass transit area: a significant restructuring of the Federal subsidy program or eventual elimination of the program.

A. Reforming Operating Subsidies

The "bottom line" on maintaining a program of operating subsidies is the assurance to the public that the funds are being properly used. In this regard any allocation formula adopted by Washington would have to be changed to reflect the actual needs of local communities and the degree of transit system operating efficiency and fiscal discipline. There would have to be a relationship, therefore, between system performance and funding.

Restructuring the Section 5 program could improve the way funds are used, however, it would also pose problems to the government. A restructured program would require a substantial increase in Federal administrative procedures, oversight mechanisms and rule-making. This would necessitate an increase in the staff and budget of the U.S. Department of Transportation and commensurate increases in state and local government agencies.

Secondly, stricter Federal controls to transit subsidy use would put the Federal government in a position of further dictating local policy to the states. Local decision making and local control would be impeded. Such a move would be contrary to the current Administration's philosophy of reducing the size and obtrusiveness of the Federal government. It is pursuing a policy of transferring the decisions of government as much as possible to local control. Therefore, in the present political environment any Federal program restructure of this nature would not be feasible.

B. Gradual Elimination of Federal Subsidies

The alternative means by which the Federal government can stimulate transit efficiency is by gradually phasing out the mass transit operating subsidy program. At the Federal level this plan has the advantage of saving not only budget funds which would be directly spent on subsidies, but also the bureaucracy which would be needed to administer the program.

At the local level, an elimination of Federal funds would force local transit managers and political leaders to make hard, difficult choices regarding the operation of their systems. No longer would localities be insulated from the consequences of poor transit system management. Local governments would be thereby forced to eliminate waste and to stimulate

64. Comptroller General Report at 25.

efficiency or to raise both taxes and fares. (The latter, because of the present "tax revolt" mood of the public, would have significant negative political repercussions throughout local communities if mass transit systems were not reformed.)

In reducing Federal operating subsidies, though, the Administration would have to be sensitive to the needs of smaller communities in which Federal monies represent a large share of operating revenue. In these cases, however, such monies could be handled through revenue-sharing or block grants. Local governmental bodies could then determine what percentage of Federal monies would go to mass transit versus other governmental services.

A reduction of Federal funding would cause short-run conflicts as are now occurring in Chicago. Reform of transit systems, while necessary, is not painless. As governments resist increasing demands made by labor unions, strikes will no doubt occur and battles will inevitably ensue over fare level, tax, system structure, and operating policies. In the long-run, however, such changes in mass transit systems will be for the better.

In the long-term we can expect to see accountability at the local level resulting in reform of mass transit services. Systems will, by necessity, stimulate more efficiency, cost control, and innovations in transit management. In fact, local governments may reassess their role as operators of urban mass transit systems, choosing instead to explore alternatives such as the "contracting-out" of transit operations to private entrepreneurs on a competitive bidding basis. While not operating the system directly, governments could continue to play a role in the regulatory oversight and planning of transit operations.

VI. Further Federal Deregulation Efforts Are Needed

Whether the Federal government chooses to reduce or to restructure the Section 5 program, it will also need to make major reforms in the rigid Federal regulations which currently add substantially to local transit costs. If the President and Congress wish to implement a policy of turning over the funding, operation, and accountability of mass transportation to local control, then it must also eliminate the Federal impediments on such control. A sample of such costly Federal rules will follow.

A. *Section 13(c) UMTA*[65]

As was discussed previously, Section 13(c) has been a primary culprit in increasing labor costs and inhibiting productivity improvements in mass transit systems. While the protection of employee rights is an important

65. 49 U.S.C. § 1609 (1976 & Cum. Supp. 1979).

issue, the present labor cost structure impairs the survival of virtually every transit system in the United States. The Federal government must address this issue by reformulating Section 13(c) so that it gives labor reasonable protections, but protects mass transit systems as well. Indeed, the issues of government subsidies and labor-management relations should be treated separately.

B. *Railway Labor Act of 1926*[66]

Regional mass transit systems will need to reduce costs on the commuter railroad systems they subsidize and this will, of course, mean a change in the labor cost structure. However, it is at present virtually impossible for local mass transit agencies to deal with this issue because railway labor contracts are negotiated at a national level. Railroads with profitable freight operations are simply not willing to demand major labor concessions to save the relatively small and unprofitable commuter rail services.

The Federal government needs to revise the Railway Labor Act to mandate separate labor contracts for local commuter railroad services. Local transit authorities should be allowed to participate in the negotiations of commuter railroad collective bargaining agreements.

C. *Handicapped Access Rules*[67]

In the past Federal regulations have been enacted which would require all mass transit systems to retrofit their facilities and equipment to accomodate the handicapped. The costs of this policy are prohibitive (especially to older systems such as Chicago) and would benefit relatively few members of society. These rules must be relaxed.

Many alternatives are available by which mass transit systems could provide the same, if not improved, services to the elderly and handicapped at a significantly lower cost. These include para-transit services, "dial-a-ride" services, and contractual agreements with private taxi companies. The principle of accomodation of the handicapped should be retained, but the means should be left to local control.

D. *Federal Equipment and Facility Specifications and Purchasing Rules*[68]

The Federal government has for many years placed itself in the position of dictating the design specifications for transit equipment (and capital expenditures) which would be purchased by local mass transit agencies.

66. Pub. L. No. 257, ch. 347, 44 Stat. 577 (1926) (codified in scattered sections of 15, 18, 28 and 45 U.S.C.).
67. 49 C.F.R. § 27 (1981) and 49 C.F.R. § 609 (1981).
68. 49 C.F.R. § 23 (1981) and 49 C.F.R. § 660 (1981).

Federal funding has been contingent on compliance with these design specifications and procurement rules.

Federal specifications have added extensively to the cost of equipment and vehicle maintenance. Yet, the bus that works well for Atlanta may not be best for Chicago and vice versa. Furthermore, such requirements have had the effect of lessening competition in the domestic transit equipment industry. Foreign producers have effectively been kept out of the market by overly strict "Buy American" purchasing and manufacturing rules.

The cost burden of Federal regulations is so great that San Diego, California recently refused to accept Federal monies in constructing its new light rail transit system, choosing instead to raise money locally and to maintain local control. Local governments must be given the freedom to decide which facility and vehicle designs best meet their needs. In addition, local agencies should have the freedom to search throughout the general marketplace for suppliers who could best produce equipment which would be consistent with the desires and budget constraints of localities.

VII. Summary and Conclusions

The record of American cities in the efficient and effective use of Federal operating subsidies has not been exemplary. The case of Chicago illustrates that too often Federal monies have been used to cater to local political interests, resulting in higher than normal costs. Subsidy payments have been used to fund high administrative overhead, lucrative labor contracts, inefficient route systems and artifically low fare structures.

President Reagan was recently elected with a public mandate to reduce the Federal budget, to cut government waste, and to return government to local control. In accordance with this mandate, the Administration has been faced with the choice of either radically restructuring or eliminating the Federal operating subsidy program.

A restructured program would run contrary to administration goals. It would require substantial Congressional legislation, administrative rulemaking, and oversight by Federal agencies. Increased bureaucracy and Federal intervention in local affairs would result.

A gradual phase-out of the Federal subsidy program would stimulate efficiencies which are critically needed for mass transit systems to survive in the future. Local control would be maximized if local governments were able to make their own decisions on whether or not to eliminate waste, increase fares or taxes, or reduce services. In the short-run there would be painful conflict in these systems, but such conflict would result in constructive system reforms.

In order to fully return control of mass transit to a local level, the Federal government would have to do more than merely end subsidy payments. Burdensome Federal transit rules which add significantly to local costs must be reformed and reduced. Such rules include restrictive labor regulations, handicapped requirements, equipment specifications and procurement rules.

Mass transportation in the United States is now entering a new era. The next few years will be a period of strain and readjustment for local transit systems. The resulting short-term conflict, however, will eventually lead to a rebirth of American urban mass transportation. In the future we can expect to witness mass transit systems which operate more efficiently, and which provide superior, cost-effective service to the public. An elimination of Federal obtrusiveness in the functioning of the nation's urban mass transportation systems is a prerequisite to attaining that goal.