



December 10, 2012

City of Ann Arbor
Attn: City Council
P.O. Box 8647
Ann Arbor, MI 48107

Mayor Hieftje and Members of Council,

I write to you as a fellow elected official and one of the lead negotiators of SB 909 to share some background and perspective on the inclusion of Washtenaw County in the new Regional Transit Authority, which was passed by the Legislature last week and is now awaiting the governor's signature. You have been asked to vote on a resolution urging Governor Snyder to veto the bill on the basis that our participation will diminish our community's ability to provide effective transit service. I hope you will take a more optimistic view after considering the points below and find a way to back away from that position.

Having worked to craft the RTA policy for the last 18 months, I do not share the perspective that the people of Washtenaw County will suffer from partnering with the other counties in metro Detroit. I do believe that the bills and existing law provide substantive legal protections for the transit agencies in the County, including AATA, and that they open the door to a more connected, robust and useful public transportation system for all of us.

In the following pages, I provide an overview of the RTA legislation and an attempt to address a number of the concerns that have been raised by members of council. Some of these are matters of law and fact, and in those instances I have tried to provide references to the data or policy. Others are a matter of politics. Although a proponent of the RTA, in those cases I've tried to provide a balanced response to allow you to fairly assess the potential risks and rewards.

Senate Bill 909 and 911 are not perfect. Many of the points that concern you were things we argued over heatedly for months: lack of mode neutrality, increased bureaucracy, funding distribution etc. Certainly the abbreviated discourse in Lansing's last week did not serve to ease anyone's minds on these issues. The Legislature's political maneuvers of the lame duck sessions made it effectively impossible to both meet the governor's goal of establishing the RTA during this session and also consider amendments to improve the legislation—the admittedly rushed adoption of the bills provides a good argument for revisiting amendments in the new year. However, the bills are solid. They take into account an array of concerns raised by transit providers, including AATA, as well as users, business leaders, environmental advocates and the like. What they provide is a long-sought opportunity for us to become, over the course of time, one of the global leaders in public transportation again. Ending the balkanization of our transit systems is a fundamental reform if we are to create a system that serves the broadest set of the population and competes successfully against places like Boston, Chicago and San Francisco for federal investments.

At the very least, I urge you to temper your resolution if you cannot find a justification to support our ongoing engagement with the RTA. Creation of the regional transit authority was a major priority of the governor's and the only piece of his transportation package that was adopted by the Legislature. It is virtually unthinkable that he would veto the bill on the basis of the City's objection. The governor's office, has, however, repeatedly indicated that they are willing to work with Washtenaw County to address substantive concerns in the new session (including, if necessary, removal of the County from the agreement). I believe, however, that it is more likely that Washtenaw will continue to be a part of the RTA for the foreseeable future. With the City as a powerful supportive partner, I believe we can transform the transit picture for the entire region.

The resolution as written signals to the governor and the Legislature that Ann Arbor is willing to jeopardize what leaders from the U.S. Secretary of Transportation to grassroots advocacy groups view as one of the most important strategic restructurings of transportation services in Michigan's history. This potentially imperils our relationships with USDOT, FTA, MDOT and the governor. Moreover, should Washtenaw stay in the RTA as I expect, this resolution indicates to our colleagues in county governments and the other participating public transit agencies that we may not be the most trustworthy partners and will likely make it more difficult for us to secure the protections and benefits for Washtenaw that can be provided via negotiations with the RTA board.

If Council does believe definitively that Washtenaw should be taken out of the RTA, a better and more constructive proposal would be to urge the governor and the Legislature to support that in the next session. Of course, I hope that Council will recognize the extraordinary opportunity that the RTA represents for the people of Washtenaw County and be more willing to work through the potential bumps. I would not be disappointed at all if Council turned down this resolution entirely.

As always, I am at your service to answer questions about the RTA and Washtenaw's inclusion.

Sincerely,



Conan Smith
Chairman
Washtenaw County Board of Commissioners

ATTACHMENTS

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What is a regional transit authority?

A regional transit authority is a public agency designed to coordinate transit service across a specific geographic footprint, encompassing multiple transit providers and governmental entities.

Who is or can be part of an RTA?

Under SB 909, Michigan has only one RTA that has an initial footprint including the counties of Macomb, Oakland, Washtenaw and Wayne. Counties that are adjacent to one of these counties may join the RTA upon approval of their board of commissioners and the RTA board.

How is the RTA governed?

The RTA has an initial governing board comprising 10 members: 1 appointed by the governor, 1 appointed by the Mayor of Detroit, 2 from each of Oakland, Macomb and Wayne counties appointed by the county executives, and 2 from Washtenaw County appointed by the chair of the board of commissioners. If an additional county joins the RTA, that county's executive or the chair of their board of commissioners appoints 2 members to the board. After the initiating period, members serve three-year, renewable terms. The governor's representative is a nonvoting member of the board.

The RTA has a citizen advisory committee empowered to review and comment on regional plans and coordination efforts and to advise the board on other matters. The committee must be at least 40 percent users of public transportation, a quarter of whom must be either senior citizens or people with disabilities. An additional twenty percent of the board will represent senior citizens and people with disabilities generally, and the balance must represent business,

labor, community and faith-based organizations. The minimum size of the board is 25 individuals, including two users from each of the participating counties and the city of Detroit.

SB 909 also creates a public transportation provider advisory council with two members from each transit provider within the RTA footprint. This council is empowered to make reports and recommendations at each RTA board meeting on coordination, funding, planning, specialized services and other matters as directed by the board.

Who can and cannot be on the board?

The RTA board is designed to protect the board from undue political influence and conflicts of interest while ensuring professional management. Board members may not be elected officials, employees of the appointing body, or employees of public transit providers in the region. Each appointee to the board must be a resident of the jurisdiction appointing them and must have “substantial business, financial, or professional experience relevant to the operation of a corporation or public transportation system.” Board members may not be previously convicted felons and are held to a general ethics standard similar to that of elected officials. Board members are charged to act in nonpartisan manner, in good faith, and in the best interests of the state. The governor may remove a board member for ethical violations.

Are board members paid?

Board members are not compensated for their service but may be reimbursed for reasonable costs incurred in the execution of their duties.

Is the RTA subject to OMA?

The RTA is a public body subject to the Open Meetings Act.

How often does the board meet?

The RTA board must meet at least quarterly but may convene as frequently as necessary.

What are the restrictions on board votes?

A majority of the board makes a quorum. Most actions of the board require a simple majority vote of all of those appointed to the board. SB 909 provides a higher voting threshold for a handful of actions.

SB 909 requires a 7/9 vote majority including one member from each county and the representative of the City of Detroit to determine the rate of and place on the ballot any millage proposal or vehicle registration fee proposal.

SB 909 requires a unanimous vote for three actions: 1) to “acquire, construct, operate, or maintain any form of rail passenger service”, 2) to acquire a public transportation provider, and 3) to place on the ballot a proposal to assume the legacy costs of a public transportation provider.

The RTA may not acquire a public transportation provider in the region without the affirmative vote of the electors in each member county unless all acquired liabilities of the provider have been covered and the RTA board unanimously agrees to assume the responsibilities for federal and state capital and operating grants for the provider.

What decisions must go to the ballot?

Millage and vehicle registration fee questions require the affirmative vote of a majority of the electors within the RTA footprint. Assuming the legacy costs of a transit provider requires the affirmative vote of a majority of the electors in each member county of the RTA.

How is the RTA funded?

The RTA can be funded in the same manner as any other public transit provider (via fees, fares, millage revenues, state and federal formula and competitive grants, donations and contracts, etc.) with a handful of exceptions. The expenses related to creating a rolling rapid transit system are exempted from Act 51 of 1951, which distributes the gas tax, sales tax and vehicle registration fees applied to the Comprehensive Transportation Fund. This exception is designed to minimize the impact of the RTA's operations on other transit providers' budgets. The RTA is specially empowered to create a regional vehicle registration fee (subject to a vote of the electors) up to \$1.20 per \$1,000 of the value of the list price of each vehicle.

In the case of a millage or a vehicle registration fee, at least 85 percent of the revenue generated by each member jurisdiction must be used within that jurisdiction.

What are its powers?

The RTA has general powers of self-governance under SB 909, including hiring staff, investing funds, and the like. In addition, the RTA is specifically empowered to

- Engage in collective bargaining;
- Acquire a transit provider;
- Operate a transit system;
- Create separate operating authorities; and
- Acquire property through various mechanisms including condemnation.

The RTA is by statute the designated recipient of state and federal transit funds for the transit providers within its jurisdiction. As such, it is empowered by SB 909 to

- Adopt a regional transit master plan;
- Establish and operate new routes and facilities;
- Create a regional rolling rapid transit system, especially along the Gratiot, Woodward, M-59 and Ann Arbor to Detroit corridors;
- Make applications for and receive state and federal transit awards on behalf of the providers in the region;

- Review, approve, disapprove and request amendments to funding applications from transit providers in the region;
- Withhold funding from transit providers in the region that do not comply with requirements for submitting an annual funding request;
- Adjust annual distributions to transit providers proportionally if funds are reduced by the state or federal governments;
- Coordinate service overlap, rates, routing, scheduling, and any other function that the authority considers necessary to implement or execute the comprehensive regional transit service plan between authorities, agencies, and owners or operators of public transportation facilities within the public transit region; and
- Issue coordination directives to public transit providers in the region and withhold up to five percent of an agency's state funding allocation if it fails to comply.

The RTA is specially exempted from local zoning and land use ordinances.

Issues Specific to Washtenaw County’s Participation in the RTA

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Connections to Regional, State and Federal Transit Officials

The RTA is an additional governing entity for transit in the region. It does not replace existing transit boards or local appointing bodies with regards to transit providers within the region. The RTA board is expected to comprise individuals with experience in business and transit and is appointed by the public officials of the various member jurisdictions.

Washtenaw County will control 22 percent of the RTA board which will approve transit funding applications. Currently those applications are subject to approval by SEMCOG where Washtenaw County representatives have less than ten percent of the vote. Moreover, Washtenaw County’s representatives have an effective veto over any funding proposal from the RTA to the electors.

Commentary: Council’s resolution argues that the RTA board has “no track record, no relationship with FTA officials, a geographic area with a larger population and less evolved transit infrastructure resulting in diminution of AATA’s priorities.” Certainly, the board is new and will have to develop a track record. It is premature, however, to suggest that the board which has not yet been appointed has no relationship with FTA officials – and it is unlikely that that would be the case. Washtenaw County’s representatives will almost certainly have direct and strong relationships with FTA officials. The RTA board more likely to be of additive value as local agencies seek to build stronger connections with the Federal Transit Administration. Moreover, given the trends in federal funding (more below), it stands to reason that with a stronger controlling interest that the priorities of the transit providers in Washtenaw County will be taken more seriously, not less.

State and Federal Funding Streams

All projects requiring Federal transportation funding, transit included, have to be approved as part of the SEMCOG long-range plan and transportation improvement plan. Creation of the RTA does not change that approval process, rather the RTA will be the single entity submitting projects to SEMCOG for inclusion in the LRP and TIP on behalf of the four counties.

Commentary: although the RTA does add a new layer of approvals to an already substantive process, having a single negotiator on behalf of the region's transit plan should make the LRP/TIP process more streamlined and break down some of the intraregional politics that have impeded AATA's ability to secure funding for innovative projects. The real arguments over those plans and projects will take place at the RTA now, an entity specifically charged with improving public transportation, rather than at SEMCOG where there is a larger and more complex transportation mandate.

Federal Formula Funds

Under Section 8 of SB 909 AATA is required to obtain approval of the RTA board for applications for federal grant funding. Failure to obtain approval will result in the loss of any state matching funds for projects included in that application. The RTA board must approve, disapprove or request modifications to an application within 60 days of it being submitted to them. Also under SB 909, the RTA becomes the designated recipient for federal funds; however, changing the federal status requires the concurrence of AATA and SEMCOG under FTA Circular 9030. Regardless of the change in designated recipient for federal funds, Circular 9030 also requires that federal 5307 funds dedicated in a particular Urbanized Area (UZA) must be used in that UZA. Washtenaw is its own UZA; the RTA cannot move 5307 funds to the Wayne/Oakland/Macomb UZA.

As the designated recipient, all grant application must go through the RTA according to SB 909. If a transit provider chooses to submit applications without the approval of the RTA board, those grants become ineligible for state matching funds. T

Commentary: the federal formula funds for AATA are strongly protected by current law. The desire for the RTA to become the designated recipient of federal funds for the entire region gives AATA a powerful tool for negotiating any policies or agreements that further protect their funding streams and grant application abilities.

Federal Discretionary Funds

Discretionary funding for transit is made through a handful of competitive grant programs within FTA. Some of these funds are already delivered regionally via SEMCOG (e.g. Congestion Mitigation and Air Quality (CMAQ) Improvement Program awards). As with formula funds, all applications would now have to come via the RTA under SB 909. AATA has been quite successful in recent years at securing these awards, including two signature grants: \$993,500 for improvements at Blake Transit Center and \$946,785 to purchase hybrid electric buses. They will lose their independent autonomy to apply for some of these discretionary funds.

Commentary: It has been suggested that integrating Washtenaw's grantseeking on a regional basis will only result in fewer funds for AATA given their successes. As strongly competitive as AATA is for project grants, however, DDOT and SMART are arguably better. An analysis of

competitive grants awarded by the Federal Transit Administration between over the five year period FY08-FY12 shows that the RTCC agencies won 54% more per capita than AATA.

	Project Grants FY08-12	Service Population	Funds per Capita
AATA	\$ 2,256,535	273,312	\$ 8.26
RTCC	\$ 42,710,917	3,359,292	\$ 12.71

SOURCES: Grant data is drawn from www.USASpending.gov; all prime awardee data as reported by agencies. The assistance prime awardee data includes agency submissions as of 12/07/2012. Service population data is recorded by the Michigan Department of Transportation at http://www.michigan.gov/mdot/0,4616,7-151-11056_11266_11269-31837--,00.html.

Moreover, a cursory scan of these awards hints that larger metropolitan regions receive larger and more complex grants more frequently. If trends continue, being part of the RTA should result in greater grantseeking success for AATA. Particularly under the Obama administration which has indicated a clear preference for regional collaboration and metropolitan organizations, there is a reasonable risk that if AATA finds itself competing directly with an even better organized Detroit applicant, we may actually see a decrease in discretionary funding.

State Formula Funding

Currently AATA is the designated recipient for all of the transit providers in Washtenaw County. SB 909 identifies the RTA as the designated recipient for state funding and requires that all applications for Act 51 funds be approved by the RTA board. However, according to MDOT each local agency receives state formula funding in amounts as if it had applied independently of the RTA. This is a familiar process for smaller agencies in Washtenaw who receive their pass-through funds from AATA.

The RTA is allowed to create and operate transit systems of various modes and to provide services within its footprint. If it operates a bus or rail system, the RTA becomes eligible for Act 51 Comprehensive Transportation Funds for operations. The effect of this could be to decrease the overall availability of CTF funds to transit providers statewide.

If the RTA creates a rolling rapid transit system, expense incurred in owning and operating it are not eligible for Act 51 funds and thus do not decrease the available funding for bus operations. One interesting point about BRT is that its infrastructure is probably eligible for non-CTF

Local and Regional Funding

The RTA has no authority over the expenditure of locally generated revenue for a transit provider other than via the master planning process. . The RTA may generate its own funds to use to provide transit services or support transit providers. SB 909 authorizes the RTA to put a millage before the voters in the region, and SB 911 authorizes the RTA to put a vehicle registration fee before the voters. If approved, at least 85 percent of the funds generated must be spent in the jurisdiction from which they are raised.

Commentary: the intention behind the vehicle registration fee is to create a funding stream for the provision of rolling rapid transit along the Gratiot, Woodward, M-59 and Ann Arbor/Detroit corridors. Council's resolution includes this assertion that Washtenaw will be a donor community to the regional system: "Whereas, Washtenaw County funding will support transportation service outside of our county disproportionate to what it receives."

The initial regional BRT plan for the region predicts 108 miles of development, 12 of which would be in Washtenaw County as well as stations in Ypsilanti and Ann Arbor. Based on their preliminary predictions of \$480M in capital costs and \$20.5M in annual operations and the revenue generating potential of each county under a millage or vehicle registration scenario, Washtenaw County will mostly likely be a recipient community.

Washtenaw County BRT local revenue to local cost assessment

	Funded by Millage	Funded by Vehicle Registration Fee
Capital Costs	Revenues exceed costs by 17%	Costs exceed revenues by 8%
Operating Costs	Costs exceed revenues by 10 %	Costs exceed revenues by 45%

Rail Transit

Section 6(3)(b) of SB 909 requires a unanimous vote of the RTA board to “acquire, construct, operate, or maintain any form of rail passenger service.” This clause applies only to the RTA itself and does not restrict transit providers within the RTA region from providing rail services.

Currently there is no intercounty commuter transit provider in southeast Michigan that takes responsibility for projects like commuter rail or bus transportation between Ann Arbor and Detroit. SB 909 does not change that status quo but does open the door for the RTA to support such a service in three ways:

- The RTA may create a bus rapid transit service on the Ann Arbor to Detroit corridor with a simple majority vote;
- The RTA may establish a separate operating authority for any transit mode under Section 7(1)(v) of SB 909 with a simple majority vote; and
- The RTA may operate a rail service with a unanimous vote of the board.

Commentary: It has been argued that the unanimous vote requirement for the RTA to run a rail system creates an unreasonable barrier to rail transportation in the region. Council’s resolution makes two points in this regard:

“Whereas, SB 909 limits the transit options available to SE Michigan and does not acknowledge the readiness to further commuter rail service from Ann Arbor to Ypsilanti, Metro airport, Dearborn and Detroit based on a decade of effort invested in planning and preparations for this regional transportation system;

Whereas, SB 909 contains onerous and offensive provisions related to consideration of rail based transportation;”

SB 909 does not, in fact, limit the transportation options available in the region. It does create a high bar for the RTA itself to own and operate rail. There are other options, including the very ones under discussion currently for both Ann Arbor / Detroit and WALLY. Moreover, SB 909 specifically directs the RTA board to adopt both the RTCC master plan and the AATA master plan as their

starting documents. Exclusion of rail from those plans would require a majority vote of the board. The representatives from Detroit, Wayne County and Washtenaw County make up a majority of the board, so it stands to reason that if those communities believe commuter rail is the right solution, it will remain in the plan.

SB 909 does show an inherent mode bias for rolling rapid transit, but this language is encouraging rather than directive. The RTA “may” develop a rolling rapid transit system, but it doesn’t have to.

How funding works in Michigan's Regional Transit Authority (RTA) legislation

Senate Bills 909, 911, 912; House Bills 5309, 5310, 5311 of 2012



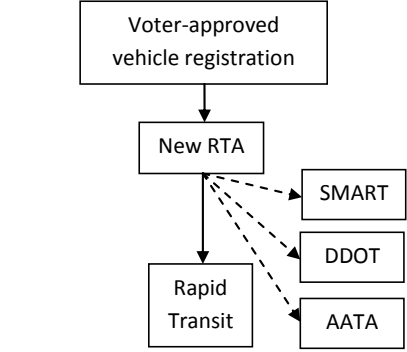
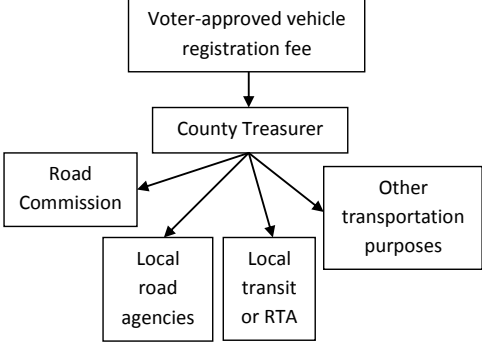
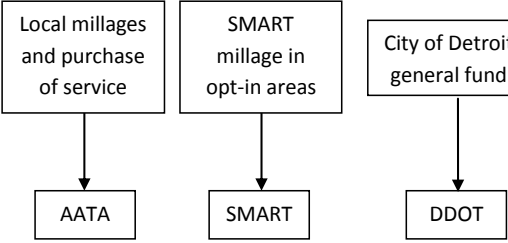
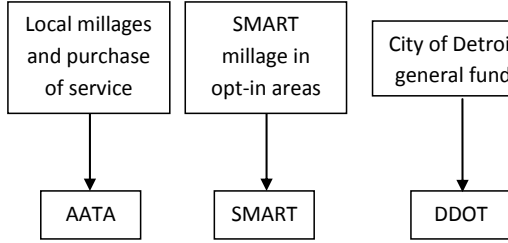
Michigan's transit agencies receive funding from a variety of Federal, state and local sources. This fact sheet is intended to provide a general understanding of how the proposed Regional Transit Authority (RTA) for Southeast Michigan will interact with the flow of funding to the existing transit agencies, as well as explain the new regional and county-level funding options available upon voter approval.

The diagrams are intended to address the most significant funding sources—some smaller, specialized Federal and state funding streams are not included.

Key to diagram abbreviations:

FTA: Federal Transit Administration
 RTCC: Regional Transit Coordinating Council
 DDOT: Detroit's local bus agency
 SMART: Suburban southeast Michigan local bus authority
 AATA: Ann Arbor local bus authority
 (Several small rural transit providers, not shown, also receive state and Federal funding via SMART and AATA)

Funding source	Current flow of funds	Proposed flow of funds
<u>Federal</u> <ul style="list-style-type: none"> The RTA becomes the “designated recipient” of all Federal funding coming into the region. The RTA must remit funds to local agencies within 10 business days of receipt. Each local agency receives Federal formula funding in amounts as if it had applied independently—e.g. formula funds “earned” by one agency’s ridership could not be diverted to another agency. 	<pre> graph TD FTA[FTA operating and capital funds] --> AATA[AATA] FTA --> RTCC[RTCC] RTCC --> SMART[SMART] RTCC --> DDOT[DDOT] </pre>	<pre> graph TD FTA[FTA operating and capital funds] --> NewRTA[New RTA] NewRTA --> RapidTransit[Rapid Transit] NewRTA --> AATA[AATA] NewRTA --> SMART[SMART] NewRTA --> DDOT[DDOT] </pre>
<u>State</u> <ul style="list-style-type: none"> The RTA becomes responsible for distributing State funding coming into the region. The RTA must remit funds to local agencies within 10 business days of receipt. Each local agency receives state formula funding in amounts as if it had applied independently—the RTA cannot “move” funds between agencies. The proposed rolling rapid transit system is not eligible for State operating assistance funds, and so will not reduce the amount of funding available to other agencies in the state. 	<pre> graph TD StateFunds[State formula operating funds] --> AATA[AATA] StateFunds --> SMART[SMART] StateFunds --> DDOT[DDOT] </pre>	<pre> graph TD StateFunds[State formula operating funds] --> NewRTA[New RTA] NewRTA --> RapidTransit[Rapid Transit] NewRTA --> AATA[AATA] NewRTA --> SMART[SMART] NewRTA --> DDOT[DDOT] </pre>

<p><u>Regional</u></p> <ul style="list-style-type: none"> • SB 911 would enable the RTA to levy either a special assessment (property tax) or vehicle registration fee. • A vehicle registration fee could not exceed \$1.20 per \$1,000 of vehicle value. (\$40/year on the average vehicle.) • Any funding raised by the RTA from these sources would require voter approval, by a majority of voters across the 4-county transit region (not each county independently). • The regional fee would be the primary funding source for the regional rapid transit network, but could also be used to support local service. 	<p>(no regional funding currently)</p>	 <pre> graph TD A[Voter-approved vehicle registration] --> B[New RTA] B --> C[Rapid Transit] B -.-> D[SMART] B -.-> E[DDOT] B -.-> F[AATA] </pre>
<p><u>County</u></p> <ul style="list-style-type: none"> • Separately from the RTA legislation, SB 910 would allow Counties to impose a vehicle registration fee (not to exceed \$1.80 per \$1,000 of vehicle value) for “transportation purposes” • Any fee imposed would require voter approval. • If the County is in the RTA region, the maximum fee the County could impose would be reduced by the amount of the RTA’s vehicle registration fee. 	<p>(no county funding currently)</p>	 <pre> graph TD A[Voter-approved vehicle registration fee] --> B[County Treasurer] B --> C[Road Commission] B --> D[Local road agencies] B --> E[Local transit or RTA] B --> F[Other transportation purposes] </pre>
<p><u>Local</u></p> <ul style="list-style-type: none"> • The existing local transit agencies receive funding locally through a variety of millages and general fund allocations. • This funding stream appears unaffected by the RTA legislation—local transit agencies would continue to draw on local funding sources, and the RTA will not control locally-provided funds. 	 <pre> graph TD A[Local millages and purchase of service] --> B[AATA] C[SMART millage in opt-in areas] --> D[SMART] E[City of Detroit general fund] --> F[DDOT] </pre>	 <pre> graph TD A[Local millages and purchase of service] --> B[AATA] C[SMART millage in opt-in areas] --> D[SMART] E[City of Detroit general fund] --> F[DDOT] </pre>