



Metropolitan Nashville and Davidson County, TN

Legislation Text

File #: BL2024-427, **Version:** 1

An ordinance adopting a transit improvement program for the Metropolitan Government of Nashville and Davidson County, approving a surcharge for the program, and requesting the Davidson County Election Commission to call a county-wide referendum election to be held on November 5, 2024, regarding the levying of the surcharge on certain taxes to fund the program.

WHEREAS, Nashville workers currently have the worst commute in the nation according to one analysis, and a recent survey by Vanderbilt University found nearly half of all commuters spend between 30 and 90 minutes in traffic each day; and,

WHEREAS, 90 percent of people surveyed during Imagine Nashville agree that investing in city-wide public transportation is an important priority, and 84 percent of people surveyed by Vanderbilt University support a citywide public transportation referendum in November; and,

WHEREAS, Tenn. Code Ann. § 67-4-3202 provides that a local government is authorized to levy a surcharge for the costs associated with the planning, engineering, development, construction, implementation, administration, management, operation, and maintenance of public transportation system projects that are part of a transit improvement program ("Program"); and,

WHEREAS, Tenn. Code Ann. § 67-4-3206 provides that before such surcharge may be imposed, a Program must be approved by a majority vote of the local legislative body through a resolution or ordinance; and,

WHEREAS, Metropolitan Code § 2.04.060 provides that a Program adopted pursuant to Tenn. Code Ann. § 67-4-3201, et seq. must be passed by an ordinance approved by the metropolitan council on third and final reading by a majority vote of all the members to which the council is entitled; and

WHEREAS, consistent with the requirements of Tenn. Code Ann. § 67-4-3206, the Metropolitan Government of Nashville and Davidson County ("Metropolitan Government") has developed a Program, known as "Choose How You Move: An All-Access Pass to Sidewalks, Signals, Service, and Safety", including the development of a financing plan; and,

WHEREAS, the Choose How You Move Transportation Improvement Program builds on more than 66,000 ideas submitted by Nashvillians over more than a decade that informed 70 plans and studies; and

WHEREAS, the Choose How You Move Transportation Improvement Program includes improvements in each Council district across Davidson County for all roadway users, whether they drive, ride transit, walk, roll, or bike; and

WHEREAS, the Choose How You Move Transportation Improvement Program has the potential to unlock as much as \$1,400,000,000 in state and federal funding throughout the life of the program; and

WHEREAS, Kraft CPAs, an independent certified public accounting firm, has examined the Plan of Finance and determined that the financing plan for the Program is feasible; and,

WHEREAS, the Metropolitan Government intends to maximize minority-owned, woman-owned, and small business participation regarding the transportation improvements to be funded by the surcharge to the fullest extent permitted by law; and,

WHEREAS, Tenn. Code Ann. § 67-4-3202(b) provides that no surcharge for a transit improvement program shall become effective unless approved by a majority of the number of registered voters of the local government voting on the question of whether the surcharge shall be levied; and,

WHEREAS, it is in the best interest of the residents of the Metropolitan Government that the Program be adopted, and that a referendum election be held on November 5, 2024.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. The Metropolitan County Council hereby approves the Choose How You Move public transit improvement program (“Program”) attached hereto as Exhibit 1 and the surcharge described in Section 2 of this Ordinance.

Section 2. The Metropolitan County Council hereby approves the following summary of the Program, which shall be printed on the ballot in accordance with Tenn. Code Ann. § 67-4-3202(b)(1):

“Passage of this measure adopted by Ordinance BL2024-_____, allows the Metropolitan Government to complete the entire priority sidewalk network when combined with annual capital spending, provide significantly expanded 24-hour public transportation service 365 days a year including frequent service on major routes, add more neighborhood transit centers, improve safety for all roadway users, and upgrade and modernize nearly two-thirds of the city’s signalized intersections.

This program’s capital cost is estimated to have a current cost of \$3,096,000,000. Once construction is complete, the estimated value of recurring annual operating and maintenance costs is approximately \$111,000,000. The Metropolitan Transit Authority (WeGo), Nashville Department of Transportation and Multimodal Infrastructure, Metro Planning Department, and Mayor’s Office, in partnership with other Metro departments, will undertake implementation of the program.

This program will be funded by federal grants, revenues from transportation system fares, debt, and a sales tax surcharge of 0.5%. The tax surcharge will end once all debt issued for the transit improvement program has been paid and the Metropolitan Council determines by resolution that the revenues from the tax surcharges are no longer needed for operation of the program.

FOR or AGAINST”

Section 3. The Metropolitan County Council hereby requests the Davidson County Election Commission to hold a referendum election on the Program surcharge on November 5, 2024, to allow the voters to vote FOR or AGAINST Ordinance No. BL2024-_____.

Section 4. The Metropolitan Clerk is directed to send a certified copy of this Ordinance to the Davidson County Election Commission.

Section 5. This Ordinance shall take effect from and after its passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This ordinance would adopt a transit improvement program and approve a surcharge to the local option sales

tax levy to fund the program. The ordinance also requests the Davidson County Election Commission to call a county-wide referendum election for November 5, 2024, to approve the levy of the surcharge.

In 2017, the General Assembly adopted the IMPROVE Act, with the provisions relative to transit improvement codified at Tennessee Code Annotated § 67-4-3201, et seq., (the “Act”) authorizing local governments, among other things, to adopt a transit improvement program and levy a surcharge on certain privilege taxes to fund costs associated with the development of a transit improvement program, namely, to fund planning, engineering, development, construction, implementation, administration, management, operation, and maintenance of the transportation projects. The Act requires that the program specify the projects that will be undertaken, the surcharge rate and type, the date or condition causing the surcharge to terminate, an estimate of the initial and recurring costs of the program, the implementing agencies, and the location of the program projects. The Act also requires that the surcharge levy be approved by the registered voters of the local government.

The Act provides that a local governing body can enact a transit improvement plan resolution or ordinance. By passage of BL2017-939, the Council determined that any transit improvement plan must be enacted by ordinance.

The detailed Choose How You Move Public Transportation Improvement Program (the “Program”) is attached to the ordinance as Exhibit 1. The Program complies with the Act by including the required elements:

- The descriptions of the transit program projects are found beginning on Program page 19 (page 15 of the Exhibit) by detailing six investment categories of projects:
 - *Sidewalks, signals, streets & safety*: The Program will invest in infrastructure that would provide safe walking access to transit and promote efficient traffic management. The plan would fund the installation or upgrade of 86 miles of sidewalk, make safety improvements at 35 high-jury intersections, and modernize traffic signals to manage traffic flows.
 - *All-access corridors*: The Program would upgrade Nashville’s most used roadways to support higher frequency transit, reliable vehicle travel, and increased safety. This would include running transit service on these corridors every 15 minutes at most, reconstructing or resurfacing some roadways, improving transit signal priority, and strategically locating dedicated transit-only lanes.
 - *WeGo essentials*: The Program would expand and modernize the WeGo transit system with new transit centers, park-and-ride facilities, buses, and added bus stop upgrades. The Program proposes 12 transit centers, park-and-ride-facilities on 12 major roads, a new bus garage facility, updated 285 bus stops, added fare modernization, and an updated bus fleet.
 - *WeGo Service enhancers*: The Program proposes an 80 percent increase in service hours on WeGo transit through more than doubling high-frequency daily service and adding local and crosstown routes to improve connectivity. The system would use 24/7 routes that would decrease waiting times and be walkable to historically underrepresented communities and high concentrations of zero-car households.
 - *Places for everyone*: The Program would fund the acquisition and preparation of property close to transit centers so it could be developed to address transit-connected community needs. The property, after Metro-sponsored joint development, would deliver more affordable housing near multimodal transit centers and increase the number of walkable neighborhoods in Nashville.

- *Innovation & technology*: The Program would leverage technology to enhance transportation access, safety, and usability. This would include expanding the WeGo Link program countywide, improving the WeGo transit app, improving adaptive signals, installing 50 miles of fiber optic cable, and upgrading the new Traffic Management Center to manage and respond to congestion and event traffic as it happens.
- The proposed surcharge type and rate is designated as a .5% increase to the local option sales tax levy.
- The tax surcharge will terminate when all the outstanding debt has been repaid.
- The initial cost of the Program is estimated at \$3,096,000,000, in 2024 dollars.
- The recurring cost of the Program is estimated at \$111,000,000 per year, in 2024 dollars.
- The primary implementing agencies of the Program will be NDOT and WeGo.
- The geographical locations of the projects are depicted throughout the Program document with a combined map of locations on Program page 95 (page 53 of the Exhibit).

The ordinance would approve the 0.5% surcharge on the local option sales tax levy as well as the specific language to be included on the referendum ballot. Passage of the ordinance will allow the Program and the surcharge to be voted upon by the registered voters of Davidson County. The ordinance requests that the Election Commission hold the referendum election on November 5, 2024. If the referendum vote is successful, the Election Commission will send the ordinance to the Tennessee Department of Revenue and collection of the surcharge revenues will begin on February 1, 2025.

The Act additionally requires a financing plan demonstrating the program's financial feasibility, an opinion of an independent certified public accounting firm, approved by the state comptroller, attesting to the plan of finance projections supporting the financial feasibility of the program. On May 13, 2024, KraftCPAs provided its opinion in a report delivered to the Mayor and the Council in which, KraftCPAs specifically opined that "[Nashville's] assertions related to the Plan of Finance about the methodology and assumptions used in the financial forecasts and projections supporting its analysis that the proposed transit program is financially feasible, and assertions about the amount off the transit improvement program's infrastructure to be financed through bonds, sales tax surcharges, or other financing methods provide a reasonable basis for Metro Nashville's Plan of Finance and are presented in accordance with the criteria set forth in [the Act]..."

It is worth noting some of the differences between the Program in the ordinance and the previous effort to implement a transit plan, through BL2017-1031, after the passage of the IMPROVE Act. The 2017 plan, called Let's Move Nashville, would have created five light rail routes, dedicated bus rapid transit lanes, new neighborhood transit centers, a transit tunnel, and increased service and routes. The initial cost was estimated to be over \$5 billion, in 2017 dollars. Funding the costs would have been supported by surcharges to the local option sales tax, hotel/motel tax, business tax, and the car rental tax. While the ordinance was adopted by the Council, the effort failed at the ballot box with 79,493 "no" votes to 44,766 "yes" votes.