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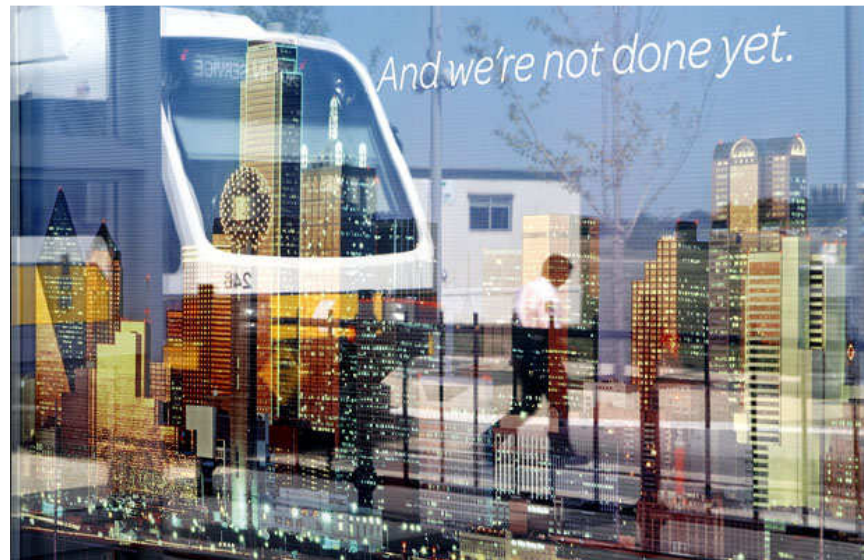
## DART seeks judge's OK to extend cap on total debt; had promised in 2000 to borrow no more than \$2.9 billion



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DART is almost through with its major expansion of light rail, but says it needs to borrow more money to finish the job. Above, a DART train is reflected in a poster of the Dallas skyline, on display at the Irving Convention Center station on the Orange Line, which will provide Irving to Dallas DART rail service, photographed on Tuesday, July 17, 2012. (Lara Solt/Staff Photographer)

In 2000, area voters gave by a large margin an answer to a question DART had asked: Would they permit the transit agency to issue long-term debt, secured by future sales tax revenues, in order to speed up construction of rail and other facilities?

The answer the voters gave was YES. The measure passed by a more than 3-1 margin.

In securing that permission, which was required under state law, DART made two promises: That the 1 percent added sales tax collected for transit would never be increased, and that the agency would never let the debt it secures through the future taxes grow beyond \$2.9 billion.

It's made good use of that permission in the years since. It now owes \$2.76 billion, and the money has been spent on creating or expanding rail on the Red, Blue, Orange and Green lines.

But \$2.9 billion is not enough, DART says, not if it is to build all the things it has promised of late, including Orange Line service to the airport.

So in 2009, the agency managed to convince the Texas Legislature to use more than just sales taxes as security for long-term debt. Now it can use gross system revenues — including, most importantly, projected farebox revenues.

In the past, that was difficult, because any such security would have had to be subordinated to other demands on those fare revenues. In other words: DART could use the fares as security for long-term debt, but would have to pay its operating expenses with the fares before it could make its debt payments.

Because, operating expenses are always higher than fares, that essentially ruled out the use of fares as collateral. You can see why: No lender or investor would accept it as collateral, because by the time DART got through paying its operating expenses, the farebox money would have been long gone.

With me so far? So the Legislature passed a law that said DART can promise to use fares to pay debt first, and use what is left over to pay operations. They would have money left over because, the sale taxes are enough to cover the operating expenses that would have otherwise been paid by the fares.

If it seems like a big game of three card monte, it is. DART has always had enough money to borrow more than \$2.9 billion, but it had promised way back in 2000 not to do so.

Or rather, more to the point — and this is DART's entire point — it had promised to not to borrow more than that if the debt was "solely secured by the sales taxes. Actually, the language on the ballot had been more precise still: "The aggregate principal amount of bonds from DART that are payable from and secured solely by the revenue from sales and use taxes ... shall never exceed \$2.9 billion."

The way DART sees it, the change in the Legislature puts them in the clear.

To test its theory, it has announced plans to sell \$155 million in bonds, and to secure the bonds with a "combined pledge" of both the sales taxes and future farebox revenues. Yes, that will take the total past \$2.9 billion — but in keeping with its promise to voters in 2000, the new debt will not be "solely" secured by the sales taxes.

Texas Attorney General Greg Abbott's office has seen this differently. It may be too simple to call the office's legal position the "a promise is a promise" doctrine, but whatever it's called, months of discussion with DART lawyers and financiers failed to convince the AG to drop its objection.

As a result, DART filed suit Monday seeking a declaratory judgment in Dallas County district court. It wants a judge to decide if it keeping its word with the Dallas-area voters, or if Abbott's position is the right one. The suit was encouraged, according to DART, by Abbott's office as a way to have the dispute resolved.

Below is the suit itself. Have at it. Meanwhile, what say you? If DART can cover the debt, using both sales taxes and future debt, is it kosher for the agency to borrow the money? Or do you think the focus on the word 'solely' misses the point and DART ought to stay south of the \$2.9 billion marker.

[Dart Petition regarding debt limits](#)

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