

# “DRAFT” NH Rail Transit Authority Governance Options

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## **1.0 Purpose**

The purpose of this white paper is to present several governance options on how the **New Hampshire Rail Transit Authority** (NHRTA) can potentially govern itself with the initiation of passenger rail in NH and along the **New Hampshire Capital Corridor** (NHCC) in the future. *The governance options as presented herein are for discussion purposes only.* They are options and do not represent any actions of the NHRTA Board or its members. How the authority will govern itself in the future will be determined through careful and thorough study and current governmental structure in New Hampshire before Project and Finance subcommittees make recommendations to the full NHRTA board in the near future.

## **2.0 Background of the NHRTA**

The NHRTA is an administrative agency attached to the **New Hampshire Department of Transportation** (NHDOT), created in 2007 by state legislation (RSA 238-A), to oversee the development and implementation of passenger rail service in NH.

In accordance with the requirement of RSA 238-A: 9.I, the initial focus of the NHRTA has been on the proposed Capital Corridor, which would connect Concord, NH with Boston, MA, via Manchester and Nashua via the existing Lowell MBTA Commuter Rail line, and may include a stop at Manchester-Boston Regional Airport. The route in the future may also be shared with a possible future high speed intercity rail line connecting Montreal and Boston.

In October 2010, the NHRTA received grants in the amount of \$2.24 million from the Federal Railroad Administration (FRA) and \$1.9 million from the Federal Transit Administration (FTA) to study and plan the Capital Corridor, marking the first time that the two federal agencies committed to work jointly on a planning grant.

Additional current projects of the NHRTA include the possible extension of the Haverhill MBTA Commuter Rail line to Plaistow, NH along the Coastal Corridor. Possible longer term projects include assessing the need and desire for passenger rail service elsewhere in the state, with a vision for restored and improved passenger and freight rail service throughout New Hampshire and connecting to neighboring states.

## **3.0 Description of Commuter Rail**

Commuter rail passenger trains typically provide service between suburbs and urban centers to access activity centers such as employment nodes, special events, and intermodal connections. Commuter rail trains are typically optimized for maximum passenger capacity and are equipped with comfortable seating and minimal luggage capacity. Service usually occurs at a lower frequency than light rail, serving primarily peak travel needs for commuters. Travel distance between a rail line’s termini generally ranges between 30 and 40 miles, but may be longer. Stations are typically 5 to 10 miles apart.

To enable commuter rail service in the New Hampshire Capital Corridor (NHCC), agreements will have to be in place with the existing freight railroad owner Pan Am Railways (PAR) and the potential operator Massachusetts Bay Transportation Authority (MBTA) and their Commuter rail contractors, and possibly Amtrak to establish how to share facilities and operate passenger service concurrently with ongoing freight service. As currently conceived, commuter rail would share existing PAR tracks and facilities from the NH/MA border to the terminus of commuter rail service in NH and MBTA tracks from Boston’s North Station to the NH/MA State line. The NHDOT and NHRTA will have to make a determination of maintenance and operation costs prior to the start of any type of passenger rail service from NH to Boston, MA North Station.

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## **4.0 Governance Options**

One of the most significant issues to be resolved in implementing passenger rail service in NH is the question of who will be the responsible party for managing, constructing and operating the system. A passenger rail system normally goes farther and cuts across more jurisdictional boundaries than most other types of transit service.

In NH, this means that the passenger rail service area will expand beyond the political boundaries of existing local transit service areas and other state and local political boundaries. Implementation of a passenger rail system will likely require a governance structure that reflects the financial, political, and representational patterns of the areas served by passenger rail.

The following subsections describe potential governance models for consideration. It is important to note that additional legal analysis is necessary to determine the application of governance options in the State of NH. Also if it is agreed that changes to the NH RSA CHAPTER 238-A the RSA that created the NHRTA is required, future legislation will have to be developed and introduced to the state legislative bodies for consideration and changes to the existing RSA.

### **4.1 Regional (State) Transit Authority/District (Multi-Modal)**

Regional or state transit authorities or districts are usually characterized by appointed boards, with representation closely aligned with area political subdivisions, and the authority to impose voter-approved taxes to balance financial resources with service demands. In many of the mature transit systems throughout the country, a regional transit authority will manage and operate several types of transit services, such as light rail, commuter rail, bus, streetcar, etc.

### **4.2 Regional (State) Rail Authority/District (Single-Purpose)**

This is the model that the NHRTA is currently operating under. However a modified regional or state transit authority or district could conceptually be a single provider of commuter rail service with its own board and planning, design, construction and operations functions. A modified regional or state authority can be formed in one of two ways: (1) by a legislative statute at the state level that defines and grants authority to a district; or (2) by a direct popular vote of the electorate in which voters opt-in to form a regional transit district. Like a regional transit authority responsible for multi-modal services, a single-purpose regional rail authority is also characterized by an appointed board with representation closely aligned with area political subdivisions, and ideally has the authority to impose voter-approved taxes for balancing financial resources with service demands. Although the NHRTA operates under this type of model, the NHRTA does not have the ability to levy taxes, only the state and political subdivisions have this authority which is tightly controlled at the state level. The NHRTA does have the authority to bond, but only with the approval of the legislature.

### **4.3 Joint Powers Authority**

A Joint Powers Authority (JPA) is a common governance model for commuter rail transit operations. A JPA is an institution permitted under the laws of some states whereby two or more public authorities can operate collectively. A JPA is distinct from the member authorities and has separate operating boards of directors that can be given any of the powers inherent in all of the participating agencies. Unlike a new transit district, which would have its own sources of funding as a political subdivision, a JPA relies on funding through its constituent members. A JPA can have legal standing at the state level or can be a partnership entered into between its constituent members via intergovernmental agreements at the local or regional level.

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The rationale for forming JPAs to govern commuter rail systems varies. In some cases, a JPA is formed during the planning and design phases of commuter rail, while in other cases a JPA is formed to take over governance from another agency, such as a state Department of Transportation. JPAs are permitted in NH under RSA CHAPTER 53-A, AGREEMENTS BETWEEN GOVERNMENT UNITS. However, the NHRTA is not a government unit which is defined in RSA 53-A: 2 as a political subdivision of the state. The NHRTA is an administrative agency attached to the New Hampshire Department of Transportation (NHDOT) in accordance with RSA 238-A.

## **4.4 Division of State Department of Transportation**

The provision of regional or state transportation services by state agencies is more common in small states with one dominant metropolitan area. Baltimore, Maryland is an example of a commuter rail system that is planned and operated by a state Department of Transportation. (See also NJDOT and SEPTA in Philadelphia)

## **4.5 Division of Metropolitan Planning Organization**

While Metropolitan Planning Organizations (MPOs) generally play a significant role in the planning for regional commuter rail service, they are usually not the entity responsible for the governance and administration of commuter rail service. One exception to this is New Mexico’s recently opened Railrunner Express; the Mid-Region Council of Governments is the lead agency for implementation of this service. Please note that there is no Council of Governments in New Hampshire.

## **4.6 Examples of Governance Models in Other Regions**

Generally, the institutional arrangements for regional or commuter rail service throughout the country range from state-run regional rail operations to large single-purpose regional rail authorities that extend service into multiple political jurisdictions, to regional transit authorities that are responsible for multimodal services, to sub-regional agreements between cities to contribute to the management of a rail service in a common corridor.

However, it must be borne in mind that governmental entities in states outside of New England revolve around county government, have very different governing authority (many have home rule), and very different revenue streams and options, than those that are in use in New Hampshire.

There are several new commuter rail systems currently in operation or being considered across the country. From these networks there is a wealth of information and experience on which to draw for the analysis of possible governance structures.

The more mature systems are significantly larger in size than the newer ones, primarily because they have built ridership as the region has grown around them. Each has been a catalyst for successful service in corridors or in the region. Ridership has followed, growing steadily as the train became a preferred commuter option for local residents. In many of these locations, commuter rail was added after the regional urban development and transportation network had already been established. This has required close coordination among regional and local jurisdictions, the railroads, private businesses, and residents in order to be successful. Regional agencies such as the MPO or the transit agency have often taken the lead in initiating this coordination.

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The table below illustrates the array of institutional arrangements that characterize typical commuter rail governance structures throughout the U.S.

## Existing Governance Models

Governance Structure	Governing Authority/District	Commuter Rail Service Description
Regional (State) Transit Authority/District (Multi-Modal)	Sound Transit District, Washington	Sounder between Seattle and Everett and Seattle and Tacoma
	Tri-County Metropolitan District, Oregon Utah Transit Authority	Westside Express Service (WES) between Wilsonville, Tualatin, Tigard and Beaverton Frontrunner and Trax (light rail and bus transit)
Regional (State) Rail Authority/District (Single-Purpose)	Sonoma-Marín Area Rail Transit, California	Planned commuter rail between Cloverdale in Sonoma County and the San Francisco-bound ferry terminal in Larkspur, Marin County.
Joint Powers Authority	Peninsula Corridor Joint Powers Board, California	Caltrain between San Francisco, San Jose, and Gilroy
	South Florida Regional Transit Authority, Florida	Tri-Rail between Miami, Fort Lauderdale and West Palm Beach
	Virginia Railway Express, Virginia	Virginia Railway Express (VRE) between northern Virginia suburbs and Alexandria, Crystal City and downtown Washington, D.C.
Division of State Department of Transportation	Maryland Transit Administration, Maryland	Maryland Area Regional Commuter (MARC) between Maryland and Union Station in Washington, D. C., operating along three rail lines
Division of Metropolitan Planning Organization	New Mexico Mid-Region Council of Governments, New Mexico	Rail Runner Express between Albuquerque, Santa Fe, and Belen

Source: URS Corp., 2009.

### 4.7 Key Considerations for Governance Models

Based on a review of the existing commuter rail system governance structures listed above, it is clear that the new systems have many different governance structures, as do the established systems. There is no one appropriate structure for governing a commuter rail system.

However, based on the decisions regarding governance made in the most recent commuter rail projects, two key factors are likely to determine the success of a new governance structure. These factors include the ability of the institutional arrangement to (1) balance local control with the need for regional system performance; and (2) provide stable funding opportunities from a variety of public and private sources. With these factors in mind, a set of typical responsibilities for the entity that manages the system is presented as follows:

- Provide a seamless transportation service;
- Raise funds from a variety of sources including: fares, local/state/federal transit or rail private developers, TIFs, user fees, etc.;
- Coordinate with other transit providers regarding schedules, public information and integrated fare systems;
- Participate in priority setting processes;

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- Facilitate growth of the network and provide transit options in off-peak periods;
- Develop long-range plans for system development;
- Coordinate with the private freight railways;
- Manage operations (often through contracts with private operators);
- Build ridership by encouraging development at stations.

These responsibilities require the close working relationship among existing transit operators and the cities served by the network.

The following Table summarizes the potential advantages and disadvantages of these governance structures;

**Potential Governance Structures**

Governance Structure Option	Potential Advantages	Potential Disadvantages
Regional (State) Transit Authority/District (Multi-Modal)	<ul style="list-style-type: none"> <li>• One transit service provider would create greater efficiencies and coordination between all transit modes to help ensure integrated regional system.</li> </ul>	<ul style="list-style-type: none"> <li>• May lack focus; if NHDOT role is expanded to include commuter rail, it has typically focused on bus and paratransit services.</li> <li>• May be cumbersome political process to expand financing methods and authority to outlying service areas (could create equity issues).</li> </ul>
Regional (State) Rail Authority/District (Single-Purpose)	<ul style="list-style-type: none"> <li>• Single focus on commuter rail, rather than competition for resources being distributed among transit modes, may help ensure success.</li> <li>• With creation of new funding mechanisms, all funding partners would be equally</li> </ul>	<ul style="list-style-type: none"> <li>• Would require close coordination with NHDOT to ensure integrated regional transit system.</li> <li>• Adds another entity/layer to the mix.</li> <li>• If formed by popular vote, would be unable to serve jurisdictions which do not vote to join, leaving gaps in representation/service.</li> <li>• Cost and start-up time to form new authority may be greater.</li> </ul>
Joint Powers Authority	<ul style="list-style-type: none"> <li>• Would provide maximum flexibility in the formation and responsibilities of a governing body.</li> <li>• Does not require legislative authority.</li> </ul>	<ul style="list-style-type: none"> <li>• May result in potential overlapping responsibilities among or within representative entities.</li> <li>• Each participating entity would be required to secure its own funding source(s) through annual appropriations and other financing mechanisms, which may result in less- stable funding.</li> <li>• May start “turf war” between entities if a new JPA is formed.</li> </ul>

Source: URS Corp., 2009.